©
Government of Kerala
1985

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 [No. 327

GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 10504|Leg. C3|84|Law. *Dated, Trivandrum, 17th April, 1985|*
27th Chaithra, 1907.

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33|1566|MC.

ORDINANCE No. 10 OF 1985

THE KERALA CASHEW FACTORIES (ACQUISITION) AMENDMENT ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Cashew Factories (Acquisition) Act, 1974.

Preamble.—WHEREAS the Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984 (19 of 1984), was promulgated by the Governor of Kerala on the 28th day of February, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984 (38 of 1984), was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 38 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 38 of 1984, the Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984 (52 of 1984), was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 52 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 52 of 1984, the Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984 (100 of 1984), was promulgated by the Governor of Kerala on the 3rd day of December, 1984;

AND WHEREAS a Bill to replace Ordinance 100 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 100 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1985.

(2) It shall be deemed to have come into force on the 28th day of February, 1984.

2. *Act 29 of 1974 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Cashew Factories (Acquisition) Act, 1974 (29 of 1974) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 8.

3. *Amendment of section 2.*—In section 2 of the principal Act,

(i) after clause (d), the following clause shall be inserted, namely:—

"(dd) "Federation" means the Kerala State Co-operative Marketing Federation;";

(ii) after clause (g), the following clause shall be inserted, namely:—

"(h) "workers' co-operative society" or "society" means a co-operative society registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) and formed with the object of managing a cashew factory which has been closed down or vested under this Act in the Government and of which at least ninety per cent of the members are workmen within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), who have been, immediately before the appointed day, in the employment of the cashew factory.".

4. *Amendment of section* 8.—In section 8 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything contained in section 3, the Government may, by order in writing:—

(a) direct that a cashew factory vested in them under this Act shall, instead of continuing to vest in the Government, vest in the Corporation with effect from such date (not being a date earlier than the appointed day) as may be specified in the order; or

(b) entrust a cashew factory vested in them under this Act to the Federation or to a workers' co-operative society or to any other institution approved by the Government in this behalf for management for such period and on such terms and conditions as may be specified in the order.".

5. *Insertion of new section 10A.*—After section 10 of the principal Act, the following section shall be inserted, namely:—

"10A. *Continuance of employees where cashew factory is entrusted to the Federation or a workers' co-operative society or to an institution for management.*—(1) Where a cashew factory vested under this Act in the Government has been entrusted to the Federation or to any other institution approved by the Government in this behalf under sub-section (1) of section 8 for management, every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and has been immediately before the appointed day in the employment of the cashew factory, shall become, on and from the date on which the cashew factory is so entrusted for management, an employee of the Federation or, as the case may be, of the institution and shall hold office or service in the cashew factory on the same terms and conditions and with the same rights as to pension, gratuity and other matters as would have been admissible to him if such cashew factory had not been transferred to, and vested in, the Government and continue to do so unless and until hi : employment in such cashew

factory is duly terminated or until his remuneration, terms and conditions of employment are duly altered, by the Federation or the Institution, as the case may be.

(2) Notwithstanding anything contained in section 10 or in any other law for the time being in force, where a cashew factory vested under this Act in the Government has been entrusted to a workers' co-operative society under sub-section (1) of section 8 for management, only such of those persons who are workmen within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and have been, immediately before the appointed day, in the employment of the cashew factory and who become members of the workers' co-operative society to which the management has been so entrusted shall be eligible for employment in the cashew factory.

(3) Every person who is eligible for employment under sub-section (2) in a cashew factory vested under this Act in the Government and is entrusted to a workers' co-operative society for management, shall become, on and from the date on which the cashew factory is so entrusted to the society for management or the date on which he becomes a member of such society, whichever is later, an employee of the society and shall hold office or service in the cashew factory on such remuneration, terms and conditions of employment as may be determined by the society.

(4) The Federation or a workers' co-operative society or any institution to which the management of a cashew factory vested under this Act in the Government is entrusted under sub-section (1) of section 8, may employ on mutually acceptable terms and conditions, any person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) and who has been, immediately before the appointed day, in the employment of such cashew factory and on such employment the said person shall become an employee of the Federation or the society or the institution, as the case may be.

(5) Where the management of a cashew factory vested under this Act in the Government is entrusted to the Federation or to a workers' co-operative society or to any other institution for management under sub-section (1) of section 8, any person whose service becomes terminated or who becomes an employee of the Federation or the society or the institution by reason of the provisions of this section, is entitled to any payment by way of gratuity or retirement benefits or for any leave not availed of, or any other benefits, prior to the appointed day, such person may enforce his claim against the occupier of the cashew factory immediately before the appointed day but not against the Government or the Federation or the society or the institution.

(6) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, any person whose service becomes terminated or whose terms and conditions of employment have been altered in pursuance of the provisions of this section, shall not be entitled to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.".

6. *Amendment of section 11.*—In section 11 of the principal Act,

(a) in sub-section (1), for the portion beginning from "to the Government or the Corporation" and ending with "as the case may be", the following shall be substituted, namely:—

"to the Government or the Corporation or the Federation or a workers' co-operative society or an institution, shall, out of the moneys standing, on the appointed day, to the credit of such provident fund, stand transferred to, and vest in, the Government or the Corporation or the Federation or the workers' co-operative society or the institution, as the case may be.";

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The moneys which stand transferred, under sub-section (1) to the Government or the Corporation or the Federation or a workers' co-operative society or an institution shall be dealt with by the Government, or the Corporation or the Federation or the workers' co-operative society or the institution, as the case may be, in such manner as may be prescribed.".

7. *Amendment of section 12.*—In section 12 of the principal Act, after the words "or the Corporation", the words "or the Federation or a workers' co-operative society or an institution" shall be inserted.

8. *Amendment of section 15.*—In section 15 of the principal Act,

(a) in sub-section (1), for the words "the Government or the Corporation", in both the places where they occur, the words "the Government or the Corporation or the Federation or a workers' co-operative society or an institution" shall be substituted;

(b) in sub-section (2), for the words "the Government or the Corporation", in both the places where they occur, the words, "the Government or the Corporation or the Federation or a workers' co-operative society or an institution" shall be substituted.

9. *Repeal and saving.*—(1) The Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984 (100 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Government of Kerala
1985

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 4128|Leg. C3|85|Law. *Dated, Trivandrum, 17th April, 1985|27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

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ORDINANCE No. 11 OF 1985

THE KERALA ESSENTIAL ARTICLES CONTROL ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to provide, in the interest of the general public, for the control of the production, supply and distribution of, and trade and commerce in, certain articles.

Preamble.—WHEREAS the Kerala Essential Articles Control Ordinance, 1984 (41 of 1984), was promulgated by the Governor of Kerala on the 12th day of May, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Essential Articles Control Ordinance, 1984 (58 of 1984), was promulgated by the Governor of Kerala on the 30th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 58 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 58 of 1984, the Kerala Essential Articles Control Ordinance, 1984 (98 of 1984), was promulgated by the Governor of Kerala on the 3rd day of December, 1984;

AND WHEREAS a Bill to replace Ordinance 98 of 1984 could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 98 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Essential Articles Control Ordinance, 1985.

(2) It shall be deemed to have come into force on the 11th day of March, 1982.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) "essential article" means any article, not being an essential commodity as defined in the Essential Commodities Act, 1955 (Central Act 10 of 1955), which may be declared by the Government by notified order to be an essential article;

(b) "notified order" means an order notified in the Gazette;

(c) "undertaking" means any undertaking by way of any trade or business and includes the occupation of handling, loading or unloading goods in the course of transport.

3. *Power to control production, supply, distribution, etc., of essential articles.*—(1) If the Government are of opinion that it is necessary or expedient so to do for maintaining or increasing the supplies of any essential article or for securing their equitable distribution and availability at fair prices, they may, by notified order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential article;

(b) for controlling the price at which any essential article may be bought or sold;

(c) for regulating by licences, permits, or otherwise the storage, distribution, transport, disposal, acquisition, use or consumption of any essential article;

(d) for prohibiting the withholding from sale of any essential article ordinarily kept for sale;

(e) for requiring any person holding in stock any essential article to sell the whole or a specified part of the stock to the Government or to an officer or agent of the Government or to such other person or class of persons and in such circumstances as may be specified in the order;

(f) for regulating or prohibiting any class of commercial or financial transactions relating to any essential article, which, in the opinion of the authority making the order, are, or if unregulated are likely to be detrimental to the public interest;

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(h) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential article to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto as may be specified in the order;

(i) for regulating the processing of any essential article;

(j) for exercising over the whole or any part of an existing undertaking, such functions of control and subject to such conditions, as may be specified in the order;

(k) for any incidental and supplementary matters including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any article in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) Where any person sells any essential article in compliance with an order made with reference to clause (e) of sub-section (2), there shall be paid to him the price therefor, as hereinafter provided:—

(a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

4. *Delegation of powers.*—The Government may, by notified order, direct that the power to make orders shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government, as may be specified in the direction.

5. *Effect of orders inconsistent with other enactments.*—Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or in any instrument having effect by virtue of any enactment other than this Ordinance.

6. *Penalties.*—If any person contravenes any order made under section 3,—

(a) he shall be punishable—

(i) in the case of an order made with reference to clause (g) or clause (h) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine; and

(ii) in the case of any other order, with imprisonment for a term which may extend to three years and shall also be liable to fine:

Provided that if the court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded, refrain from imposing a sentence of imprisonment; and

(b) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government:

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

7. *Attempt and abetment.*—Any person who attempts to contravene or abets a contravention, of any order made under section 3, shall be deemed to have contravened that order.

8. *False statements.*—If any person,—

(i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true; or

(ii) makes any such statement as aforesaid in any book, accounts, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

9. *Offences by companies.*—(1) If the person contravening an order made under section 3 is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company,

shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate, and includes a firm o other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

10. *Cognizance of offences.*—No court shall take cognizance of any offence punishable under this Ordinance except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (Central Act 45 of 1860).

11. *Presumption as to orders.*—Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Ordinance, a court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872 (Central Act I of 1872).

12. *Burden of proof.*—Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence, or other document, the burden of proving that he has such authority, or as the case may be, the requisite permit, licence, or other document shall be on him.

13. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3,

14. *Validation.*—Notwithstanding the expiry of the Kerala Essential Articles Control (Temporary Powers) Act, 1961 (3 of 1962) (hereinafter referred to as the said Act), on the 11th day of March, 1982,—

(a) anything purporting to have been done or any action purporting to have been taken after the 11th day of March, 1982, under or in pursuance of the said Act shall be deemed to have been done or taken under the corresponding provision of this Ordinance;

(b) any notified order made under the said Act and in force on the 11th day of March, 1982, shall be deemed to have continued in force after that date as if such notified order had been made under the corresponding provision of this Ordinance,

and accordingly anything done or purporting to have been done or any action taken or purporting to have been taken under or in pursuance of the said Act or any notified order made thereunder after the 11th day of March, 1982, shall not be deemed to be invalid or ever to have been invalid merely on the ground that the said Act had ceased to be in force on the said date.

15. *Saving.*—Nothing contained in this Ordinance shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him after the 11th day of March, 1982 and before the date of publication of the Kerala Essential Articles Control Ordinance, 1984 (41 of 1984), in the Gazette.

16. *Repeal and saving.*—(1) The Kerala Essential Articles Control Ordinance, 1984 (98 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

Government of Kerala
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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 3584|Leg. C3|85|Law. *Dated, Trivandrum, 17th April, 1985|27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

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ORDINANCE No. 12 OF 1985

THE KERALA CASHEW FACTORIES (REQUISITIONING) AMENDMENT ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN
ORDINANCE

to amend the Kerala Cashew Factories (Requisitioning) Act, 1979.

Preamble.—WHEREAS the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (40 of 1984), was promulgated by the Governor of Kerala on the 3rd day of May, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (59 of 1984), was promulgated by the Governor of Kerala on the 30th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 59 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 59 of 1984, the Kerala Cashew Factories (Requisitioning) Amendment Ordinance 1984 (101 of 1984), was promulgated by the Governor of Kerala on the 3rd day of December, 1984;

AND WHEREAS a Bill to replace Ordinance 101 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 101 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1985.

(2) It shall be deemed to have come into force on the 26th day of February, 1982.

2. *Act 6 of 1979 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Cashew Factories (Requisitioning) Act, 1979 (6 of 1979) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 3.*—In section 3 of the principal Act, in sub-section (1), for the words "by order published in the Gazette, requisition that cashew factory for such period not exceeding five years as may be specified in the order and may make such further orders as appear to them to be necessary or expedient in connection with the requisition:", the following shall be substituted, namely:—

"by order published in the Gazette—

(a) requisition that cashew factory for such period not exceeding five years as may be specified in the order;

(b) extend the period of requisition by five years at a time;

(c) make such further orders as appear to them to be necessary or expedient in connection with the requisition:",

4. *Validation.*—Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court, or in any contract, agreement or other arrangement, where any cashew factory had been requisitioned under sub-section (1) of section 3 of the principal Act and vested in the Kerala State Cashew Development Corporation Limited under sub-section (3) of that section, before the commencement of the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (40 of 1984) and the period of such requisition and vesting had expired before such commencement but such cashew factory continued in the possession of the said Corporation until such commencement, such requisitioning and vesting shall be deemed to have been continued by orders under sub-section (1) and sub-section (3) of section 3 of the principal Act as amended by this Ordinance, and accordingly any action taken by the Government or the said Corporation in respect of such cashew factory shall be, and shall be deemed always to have been, valid and in accordance with law.

5. *Repeal and saving.*—(1) The Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (101 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 3676|Leg. C1|85|Law. *Dated, Trivandrum, 17th April, 1985| 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

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ORDINANCE No. 18 OF 1985

THE UNIVERSITY LAWS (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala University Act, 1974 and the Calicut University Act, 1975.

Preamble.—WHEREAS the University Laws (Amendment) Ordinance. 1982 (6 of 1982), was promulgated by the Governor of Kerala on the 17th day of November, 1982;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of February, 1983 and ended on the 30th day of March, 1983;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the University Laws (Amendment) Ordinance, 1983 (11 of 1983), was promulgated by the Governor of Kerala on the 6th day of April, 1983;

AND WHEREAS a Bill to replace Ordinance 11 of 1983 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 20th day of June, 1983 and ended on the 4th day of August, 1983;

AND WHEREAS in order to keep alive the provisions of Ordinance 11 of 1983, the University Laws (Amendment) Ordinance, 1983 (26 of 1983), was promulgated by the Governor of Kerala on the 20th day of August, 1983;

AND WHEREAS a Bill to replace Ordinance 26 of 1983 by an Act of the Legislature could not be passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983;

AND WHEREAS in order to keep alive the provisions of Ordinance 26 of 1983, the University Laws (Amendment) Ordinance, 1984 (2 of 1984), was promulgated by the Governor of Kerala on the 5th day of January, 1984;

AND WHEREAS a Bill to replace Ordinance 2 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 2 of 1984, the University Laws (Amendment) Ordinance, 1984 (36 of 1984), was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 36 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 36 of 1984, the University Laws (Amendment) Ordinance, 1984 (55 of 1984), was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 55 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 55 of 1984, the University Laws (Amendment) Ordinance, 1984 (89 of 1984), was promulgated by the Governor of Kerala on the 30th day of November, 1984;

AND WHEREAS a Bill to replace Ordinance 89 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985.

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 89 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the University Laws (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 18th day of November, 1982.

2. *Act* 17 *of* 1974 *and* 5 *of* 1975 *to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala University Act, 1974 (17 of 1974) and the Calicut University Act, 1975 (5 of 1975), shall have effect subject to the amendments specified in section 3 and section 4 respectively.

3. *Amendment of Act 17 of 1974.*—In the Kerala University Act, 1974 (17 of 1974), in section 56,—

(a) in sub-section (1), after the words "affiliation to the University of any college", the words "or for affiliation in new courses in any affiliated college" shall be inserted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The terms and conditions of affiliation of a college or of affiliation in new courses in an affiliated college and the procedure to be followed by the Syndicate in granting such affiliation, including the period within which the Syndicate shall consider an application under sub-section (1), shall be prescribed by the Statutes:

Provided that the Chancellor may, by notification in the Gazette, for reasons to be specified in the notification, extend the period within which the Syndicate shall consider any application under sub-section (1), whether such period has already expired or not, by such further period, not exceeding one year, as may be specified in such notification.".

4. *Amendment of Act 5 of 1975.*—In the Calicut University Act, 1975 (5 of 1975), in section 56,—

(a) in sub-section (1), after the words "affiliation to the University of any college", the words "or for affiliation in new courses in any affiliated college" shall be inserted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The terms and conditions of affiliation of a college or of affiliation in new courses in an affiliated college and the procedure to be followed by the Syndicate in granting such affiliation, including the period within which the Syndicate shall consider an application under sub-section (1), shall be prescribed by the Statutes:

Provided that the Chancellor may, by notification in the Gazette, for reasons to be specified in the notification, extend the period within which the Syndicate shall consider any application under sub-section (1), whether such period has already expired or not, by such further period, not exceeding one year, as may be specified in such notification.".

5. *Repeal and saving.*—(1) The University Laws (Amendment) Ordinance, 1984 (89 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the Kerala University Act, 1974 (17 of 1974), or the Calicut University Act, 1975 (5 of 1975), as amended by the said Ordinance, shall be deemed to have been done or taken under the Kerala University Act, 1974 or, as the case may be, the Calicut University Act, 1975, as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 [No. 338

GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 5891|Leg. A1|85|Law. *Dated, Trivandrum, 17th April, 1985| 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985 is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33/1583/MC.

ORDINANCE No. 21 OF 1985

THE TRAVANCORE-COCHIN HINDU RELIGIOUS INSTITUTIONS (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Travancore-Cochin Hindu Religious Institutions Act, 1950.

Preamble.—WHEREAS the Travancore-Cochin Hindu Religious Institutions (Amendment) Ordinance, 1984 (72 of 1984) was promulgated by the Governor of Kerala on the 10th day of October, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance the Travancore-Cochin Hindu Religious Institutions (Amendment) Ordinance, 1984 (86 of 1984), was promulgated by the Governor of Kerala on the 28th day of November, 1984;

AND WHEREAS a Bill to replace Ordinance 86 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 86 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Travancore-Cochin Hindu Religious Institutions (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 10th day of October, 1984.

2. *Act XV of 1950 to be temporarily amended.*—During the period of operation of this Ordinance, the Travancore-Cochin Hindu Religious Institutions Act, 1950 (XV of 1950) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 12.

3. *Amendment of section 4.*—In section 4 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) The Board shall consist of three members who believe in God and profess the Hindu religion and believe in temple worship.

(1A) Of the three members of the Board specified in sub-section (1), two members shall be nominated by the Hindus among the Council of Ministers and one member shall be elected by the Hindus among the Members of the Legislative Assembly of the State of Kerala.

Explanation.—For the purposes of this sub-section, "Hindu" means a person who believes in God and professes the Hindu religion.".

4. *Substitution of new section for section 5.*—For section 5 of the principal Act, the following section shall be substituted, namely:—

"5. *Procedure for the election of member to the Board.*—(1) A meeting of the Hindus among the members of the Legislative Assembly of the State of Kerala shall be summoned under the authority of the Governor of Kerala, by any person authorised in this behalf by the Governor of Kerala, to meet at such time and place and on such date as may be fixed by him in this behalf, for the election of a member to the Board.

(2) Every Hindu Member of the Legislative Assembly of the State of Kerala who intends to participate in the election at the meeting summoned under sub-section (1) shall, before participating in the election, deliver to the person commissioned by the Governor of Kerala to preside over the meeting, a declaration signed by him to the effect that he believes in God and professes the Hindu religion.

(3) The election shall be held in accordance with the rules specified in Schedule II, by the person commissioned by the Governor of Kerala to preside over the meeting.".

5. *Amendment of section 6.*—In section 6 of the principal Act, for the words "professes the Hindu Religion", the words "believes in God and professes the Hindu religion and believes in temple worship" shall be substituted.

6. *Insertion of new section 7A.*—After section 7 of the principal Act, the following section shall be inserted, namely:—

"7A. *Oath by members.*—Every person elected or nominated to the Board shall before entering upon his office, make and subscribe in the presence of the Secretary of the Board an oath in the following form, that is to say—

"I, A. B., do swear in the name of God that I profess the Hindu religion and believe in temple worship.".

7. *Amendment of section 8.*—In section 8 of the principal Act, in sub-section (1), for the words "or ceases to profess the Hindu Religion", the words "or ceases to believe in God or to profess the Hindu religion or to believe in temple worship" shall be substituted.

8. *Substitution of new sections for sections 63 and 64.*—For sections 63 and 64 of the principal Act, the following sections shall be substituted, namely:—

"63. *Constitution of the Cochin Devaswom Board.*—(1) The Board shall consist of three members who believe in God and profess the Hindu religion and believe in temple worship.

(2) Of the three members of the Board specified in sub-section (1), two members shall be nominated by the Hindus among the Council of Ministers and one member shall be elected by the Hindus among the Members of the Legislative Assembly of the State of Kerala.

Explanation.—For the purposes of sub-section (2), "Hindu" means a person who believes in God and professes the Hindu religion.

64. *Procedure for the election of member to the Board.*—(1) A meeting of the Hindus among the Members of the Legislative Assembly of the State of Kerala shall be summoned under the authority of the Governor of Kerala by any person authorised in this behalf by the Governor of Kerala, to meet at such time and place and on such date as may be fixed by him in this behalf, for the election of a member to the Board.

(2) Every Hindu Member of the Legislative Assembly of the State of Kerala who intends to participate in the election at the meeting summoned under sub-section (1) shall, before participating

in the election, deliver to the person commissioned by the Governor of Kerala to preside over the meeting, a declaration signed by him to the effect that he believes in God and professes the Hindu religion.

(3) The election shall be held in accordance with the rules specified in Schedule II, by the person commissioned by the Governor of Kerala to preside over the meeting.";

9. *Amendment of section 65.*—In section 65 of the principal Act, for the words "professes the Hindu religion", the words "believes in God and professes the Hindu religion and believes in temple worship" shall be substituted.

10. *Insertion of new section 66A.*—After section 66 of the principal Act, the following section shall be inserted, namely:—

"66A. *Oath by members.*—Every person elected or nominated to the Board shall, before entering upon his office, make and subscribe in the presence of the Secretary of the Board an oath in the following form, that is to say—

"I, A. B., do swear in the name of God that I profess the Hindu religion and believe in temple worship.".

11. *Amendment of section 67.*—In section 67 of the principal Act, in sub-section (1), for the words "or ceases to profess the Hindu religion", the words "or ceases to believe in God or to profess the Hindu religion or to believe in temple worship" shall be substituted.

12. *Amendment of Schedule II.*—In Schedule II to the principal Act, in rule 3, for the last sentence, the following sentence shall be substituted, namely:—

"The person nominated shall affix his signature to the nomination paper before it is delivered to the Chairman, stating that he believes in God and professes the Hindu religion and believes in temple worship and that he is willing to serve as a member of the Board, if elected.".

13. *Repeal and saving.*—(1) The Travancore-Cochin Hindu Religious Institutions (Amendment) Ordinance, 1984 (86 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 6324/Leg.B2/85/Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

ORDINANCE No. 28 OF 1985

THE KERALA MOTOR VEHICLES TAXATION (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Motor Vehicles Taxation Act, 1976.

Preamble.—WHEREAS the Kerala Motor Vehicles Taxation (Amendment) Ordinance, 1984 (103 of 1984), was promulgated by the Governor of Kerala on the 28th day of November, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—This Ordinance may be called the Kerala Motor Vehicles Taxation (Amendment) Ordinance,

(2) Section 3 shall be deemed to have come into force on the 1st day of April, 1985 and the remaining provisions of this Ordinance shall be deemed to have come into force on the 1st day of January, 1985.

2. *Act 19 of 1976 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

3. *Amendment of section 4.*—In section 4 of the principal Act,—

(i) in sub-section (1), after the proviso and before the Explanation, the following further proviso shall be inserted, namely:—

"Provided further that where the tax payable in respect of a motor vehicle for a year does not exceed three hundred rupees, the tax shall be paid yearly upon an annual licence.".

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in any other provision of this Act, 'year', in relation to a motor vehicle in respect of which tax has to be paid yearly upon an annual licence in pursuance of the second proviso to sub-section (1), shall mean a period of twelve months commencing on the first day of the quarter in which the vehicle has been, or is, first registered in the State and annual tax licence in respect of such a vehicle shall be taken accordingly:

Provided that if the tax in respect of a motor vehicle for any portion of the year so reckoned has already been paid, the tax payable for the remaining period of that year shall be calculated at the rate of one-twelfth of the annual tax for each calendar month or part thereof:

Provided further that in the case of a motor vehicle in respect of which tax has to be paid yearly upon an annual licence in pursuance of the second proviso to sub-section (1), the tax for the

period from the 1st day of April, 1985, to the commencement of the year in relation to such a vehicle shall be paid as if the said Ordinance had not been promulgated.".

4. *Amendment of the Schedule.*—In the Schedule to the principal Act,—

(a) in the entries relating to Serial Number 4, for sub-class (i) (d) under the heading "Class of Vehicle" and the entry against that sub-class under the heading "Rate of quarterly tax", the following sub-classes and entries shall be substituted, namely:—

"(d) more than 6 passengers, but not more than 20 passengers, for every passenger	100·00
(e) more than 20 passengers, for every passenger	200·00";

(b) in the proviso, after clause (4), the following clause shall be inserted, namely:—

"(4A) the tax in respect of a motor vehicle which is registered in the State as new, or brought from outside the State, after the 1st day of April, 1985, and in respect of which tax has to be paid annually in pursuance of the second proviso to sub-section (1) of section 4, the annual tax payable for the first year shall be at the rate of 1|12th of the annual tax for each calendar month or part thereof from the date of such registration;".

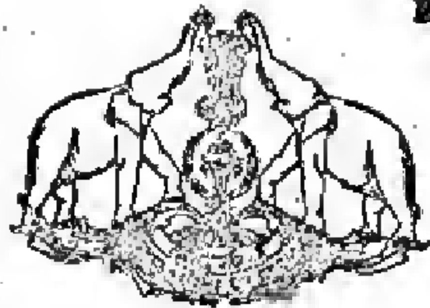
5. *Repeal and saving.*—(1) The Kerala Motor Vehicles Taxation (Amendment) Ordinance, 1984 (103 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR

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Government of Kerala
1985

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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 4227/Leg.B1/85/Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33|1597|MC.

ORDINANCE No. 33 OF 1985

THE IRRIGATION LAWS (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Madras Irrigation Cess Act, 1865 *and the Malabar Irrigation Works (Construction and Levy of Cess) Act,* 1947.

Preamble.—WHEREAS the Irrigation Laws (Amendment) Ordinance, 1983 (33 of 1983) was promulgated by the Governor of Kerala on the 23rd day of September, 1983;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Irrigation Laws (Amendment) Ordinance, 1984 (6 of 1984), was promulgated by the Governor of Kerala on the 5th day of January, 1984;

AND WHEREAS a Bill to replace Ordinance 6 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 6 of 1984, the Irrigation Laws (Amendment) Ordinance, 1984 (26 of 1984) was promulgated by the Governor of Kerala on the 11th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 26 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 26 of 1984, the Irrigation Laws (Amendment) Ordinance, 1984 (48 of 1984) was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 48 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 48 of 1984, the Irrigation Laws (Amendment) Ordinance, 1984 (81 of 1984) was promulgated by the Governor of Kerala on the 28th day of November 1984;

AND WHEREAS a Bill to replace Ordinance 81 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 81 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Irrigation Laws (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 24th day of September, 1983.

2. *Madras Act VII of* 1865 *and Madras Act VII of* 1947 *to be temporarily amended.*—During the period of operation of this Ordinance, the Madras Irrigation Cess Act, 1865 (Madras Act VII of 1865) and the Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947 (Madras Act VII of 1947), as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), shall have effect subject to the amendments specified in sections 3 and 4 respectively.

3. *Amendment of Madras Act VII of* 1865.—Section 2 of the Madras Irrigation Cess Act, 1865 (Madras Act VII of 1865), shall be renumbered as sub-section (1) of that section and—

(a) in sub-section (1) as so renumbered, after the words "water cess payable under this Act", the words "together with the interest due thereon" shall be inserted;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Arrears of water cess payable under this Act shall bear interest at the rate of four per cent per annum.".

4. *Amendment of Madras Act VII of* 1947.—Section 13 of the Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947 (Madras Act VII of 1947) shall be renumbered as sub-section (1) of that section and—

(a) in sub-section (1) as so renumbered, after the words "under this Act", the words "and the interest due thereon" shall be inserted;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Arrears of water cess payable under this Act shall bear interest at the rate of four per cent per annum.".

5. *Repeal and saving.*—(1) The Irrigation Laws (Amendment) Ordinance, 1984 (81 of 1984) is herebv repealed.

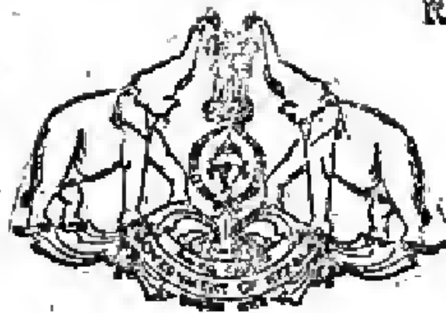
(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the Madras Irrigation Cess Act, 1865 (Madras Act VII of 1865), or the Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947 (Madras Act VII of 1947), as amended by the said Ordinance, shall be deemed to have been done or taken under the Madras Irrigation Cess Act, 1865 or, as the case may be, the Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947, as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Government of Kerala
1985

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KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 9688|Leg. C2|84|Law. *Dated, Trivandrum, 17th April, 1985|*
27th Chaithra, 1907.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 17th day of April, 1985.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33|1561|MC.

ACT 11 OF 1985

THE KERALA MUNICIPALITIES (AMENDMENT) ACT, 1985

An Act further to amend the Kerala Municipalities Act, 1960.

Preamble.—WHEREAS it is expedient further to amend the Kerala Municipalities Act, 1960, for the purpose hereinafter appearing;

BE it enacted in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Municipalities (Amendment) Act, 1985.

(2) It shall be deemed to have come into force on the 30th day of September, 1982.

2. *Amendment of section 412.*—In sub-section (2) of section 412 of the Kerala Municipalities Act, 1960 (14 of 1961) (hereinafter referred to as the principal Act), for the words "Forty-five months", the words "ninety-six months" shall be substituted.

3. *Repeal and Saving.*—(1) The Kerala Municipalities (Amendment) Ordinance, 1985 (3 of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

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GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 9697|Leg. (A) 1|84|Law. *Dated, Trivandrum, 17th April, 1985|*
27th Chaithra, 1907.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 17th day of April, 1985.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

ACT 13 OF 1985

THE KERALA REVENUE RECOVERY (AMENDMENT) ACT, 1985

An Act to amend the Kerala Revenue Recovery Act, 1968.

Preamble.—WHEREAS it is expedient to amend the Kerala Revenue Recovery Act, 1968, for the purposes hereinafter appearing;

BE it enacted in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Revenue Recovery (Amendment) Act, 1985.

(2) It shall be deemed to have come into force on the 22nd day of February, 1983.

2. *Amendment of section 7.*—In section 7 of the Kerala Revenue Recovery Act, 1968 (15 of 1968) (hereinafter referred to as the principal Act), for the words "shall show the demand in writing to the defaulter", the words "shall serve the demand in writing on the defaulter" shall be substituted.

3. *Amendment of section 74.*—In section 74 of the principal Act, for the words "notice or order", wherever they occur, the words "notice, demand or order" shall be substituted.

4. *Repeal and saving.*—(1) The Kerala Revenue Recovery (Amendment) Ordinance, 1984 (85 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

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KERALA GAZETTE

EXTRAORDINARY

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Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 No. 332

GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 15836|Leg. C2|84|Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1985.

33|1571|MC.

ORDINANCE No. 15 OF 1985

THE KERALA MUNICIPAL CORPORATIONS (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Municipal Corporations Act, 1961 and for certain matters incidental thereto.

Preamble.—WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the Kerala Municipal Corporations (Amendment) Ordinance, 1985 (5 of 1985), promulgated by the Governor of Kerala on the 28th day of February, 1985, will cease to operate on the 17th day of April, 1985;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Municipal Corporations (Amendment) Ordinance, 1985.

(2) Section 3 of this Ordinance shall be deemed to have come into force on the 1st day of September, 1984 and the remaining provisions shall be deemed to have come into force on the 30th day of September, 1984.

2. *Act 30 of 1961 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Municipal Corporations Act, 1961 (30 of 1961) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 67.*—In section 67 of the principal Act, in sub-section (1), the proviso shall be omitted.

4. *Special provision for vesting of the functions of the council and of the Mayor, the Deputy Mayor and of the standing committees and other committees of the municipal corporations of the cities of Trivandrum, Cochin and Calicut in Government for temporary period.*—Notwithstanding anything to the contrary contained in the principal Act or in any rule, bye-law or regulation made thereunder or in any judgment, decree or order of any court, the functions of the council and of the Mayor, the Deputy Mayor and of the standing committees and other committees of the municipal corporations of the cities of Trivandrum, Cochin and Calicut, the term of office of the councillors of which expires on the 30th day of September, 1984, shall, by virtue of this section, be vested in the Government for a period of one year from the date immediately succeeding the said date, and the functions so vested shall be exercised by the Government in accordance with such rules as may be prescribed by them in that behalf.

5. *Repeal and saving.*— (1) The Kerala Municipal Corporations (Amendment) Ordinance, 1985 (5 of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemd to have been taken under the said Ordinance or under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Ordinance or under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

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EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 2858|Leg. C1|85|Law. *Dated, Trivandrum, 17th April, 1985| 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33|1575|MC.

ORDINANCE No. 19 of 1985

THE KERALA GRANDHASALA SANGHAM (TAKING OVER OF MANAGEMENT) AMENDMENT ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Grandhasala Sangham (Taking Over of Management) Act, 1977.

Preamble.—WHEREAS the Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984 (16 of 1984), was promulgated by the Governor of Kerala on the 15th day of February, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984 (37 of 1984), was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 37 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 37 of 1984, the Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984 (56 of 1984), was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 56 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 56 of 1984, the Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984 (97 of 1984), was promulgated by the Governor of Kerala on the 3rd day of December, 1984;

AND WHEREAS a Bill to replace Ordinance 97 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 97 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1985.

(2) It shall be deemed to have come into force on the 1st day of April, 1982.

2. *Act 19 of 1977 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Grandhasala Sangham (Taking Over of Management) Act, 1977 (19 of 1977) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 3.*—In section 3 of the principal Act, in the proviso to sub-section (6), for the words "five years", the words "ten years" shall be substituted.

4. *Validation.*—Notwithstanding anything contained in the principal Act, or in any other law for the time being in force, the term of office of the members of the Board of Control appointed under section 3 of the principal Act by noification No. 5895|A3|80| H. Edn. dated the 21st April, 1980, published in the Kerala Gazette Extraordinary No. 284 dated the 21st April, 1980, which expired on the 20th day of April, 1982, shall be deemed to have been extended upto and including the date of publication of the Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984 (16 of 1984), in the Gazette by notification under the proviso to sub-section (6) of the said section as amended by this Ordinance, and accordingly anything done or any action taken by the Government or the said Board of Control or any other person or authority in the purported exercise of the powers and functions conferred by or under the principal Act shall not be deemed to be invalid or ever to have been invalid merely on the ground that the term of office of the members of the Board of Control aforesaid had expired on the said date.

5. *Repeal and saving.*—(1) The Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984 (97 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 4148|Leg. C1|85|Law. *Dated, Trivandrum, 17th April, 1985|27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

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33|1576|MC.

ORDINANCE No. 20 OF 1985

THE UNIVERSITY LAWS (SECOND AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala University Act, 1974 and the Calicut University Act, 1975.

Preamble.—WHEREAS the University Laws (Second Amendment) Ordinance, 1984 (70 of 1984), was promulgated by the Governor of Kerala on the 29th day of September, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the University Laws (Second Amendment) Ordinance, 1984 (90 of 1984), was promulgated by the Governor of Kerala on the 30th day of November, 1984;

AND WHEREAS a Bill to replace Ordinance 90 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 90 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the University Laws (Second Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 5th day of October, 1984.

2. *Acts 17 of 1974 and 5 of 1975 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala University Act, 1974 (17 of 1974) and the Calicut University Act, 1975 (5 of 1975), shall have effect subject to the amendments specified in section 3 and section 4 respectively.

3. *Amendment of Act 17 of 1974.*—In the Kerala University Act, 1974 (17 of 1974), in sub-section (1) of section 11, the words "in consultation with the Vice-Chancellor" shall be omitted.

4. *Amendment of Act 5 of 1975.*—In the Calicut University Act, 1975 (5 of 1975), in sub-section (1) of section 11, the words "in consultation with the Vice-Chancellor" shall be omitted.

5. *Repeal and saving.*—(1) The University Laws (Second Amendment) Ordinance, 1984 (90 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the Kerala University Act, 1974 (17 of 1974), or the Calicut University Act, 1975 (5 of 1975), as amended by the said Ordinance, shall be deemed to have been done or taken under the Kerala University Act, 1974 or, as the case may be, the Calicut University Act, 1975, as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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KERALA GAZETTE

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GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 5001|Leg. A1|85|Law. *Dated, Trivandrum, 17th April, 1985|27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33/1584/MC.

ORDINANCE No. 22 OF 1985

THE LAND ACQUISITION (KERALA AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India

AN

ORDINANCE

to amend the Land Acquisition Act, 1894, in its application to the State of Kerala.

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Land Acquisition (Kerala Amendment) Ordinance, 1985.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Act 1 of 1894 to be amended.*—During the period of operation of this Ordinance, the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as the principal Act), shall, in its application to the State of Kerala, have effect subject to the amendments specified in sections 3 to 7.

3. *Amendment of section 4.*—In section 4 of the principal Act,—

(i) in sub-section (1),—

(a) after the words "the appropriate Government", the words "or to the Board of Revenue or to the Collector" shall be inserted;

(b) after the words "any locality", the words "in the State of Kerala or within the jurisdiction of the Collector, as the case may be," shall be inserted;

(ii) in sub-section (2), after the words "by such Government", the words "or the Board of Revenue or the Collector, as the case may be," shall be inserted.

4. *Amendment of section 5A.*—For sub-section (2) of section 5A of the principal Act, the following sub-section shall be substituted, namely:—

"(2) Every objection under sub-section (1) shall be made to the Collector in writing and the Collector shall give the objector an opportunity of being heard either in person or by any person authorised by him in this behalf or by counsel and shall, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 4 or make different reports in respect of different parcels of such land,—

(i) to the Government, where the notification under sub-section (1) of section 4 was published by the Government;

(ii) to the Board of Revenue, where the notification under sub-section (1) of section 4 was published by the Board of Revenue or by himself,

containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of the Government or the Board of Revenue, as the case may be. The decision of the Government or the Board of Revenue, as the case may be, shall be final.".

5. *Amendment of section 6.*—In section 6 of the principal Act,—

(i) in sub-section (1),—

(a) after the words "the appropriate Government", the words "or the Board of Revenue" shall be inserted;

(b) after the words "to certify its orders", the words "or of the Secretary of the Board of Revenue, as the case may be," shall be inserted;

(ii) in sub-section (3), after the words "appropriate Government", the words "or the Board of Revenue, as the case may be," shall be inserted.

6. *Amendment of section 7.*—In section 7 of the principal Act, after the words "or some officer authorised by the appropriate Government in this behalf", the words "or the Board of Revenue, as the case may be," shall be inserted.

7. *Amendment of section 17.*—In section 17 of the principal Act,—

(i) in sub-section (1), after the words "appropriate Government", the words "or the District Collector" shall be inserted;

(ii) in sub-section (4),—

(a) after the words "in the opinion of the appropriate Government", the words "or the Board of Revenue" shall be inserted;

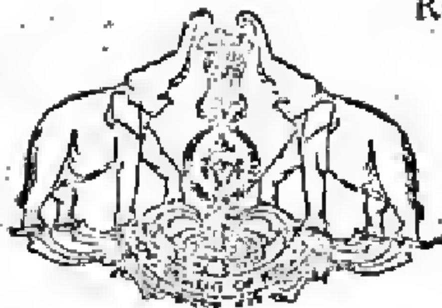
(b) for the words "the appropriate Government may direct", the words "the appropriate Government or the Board of Revenue, as the case may be, may direct" shall be substituted.

P. RAMACHANDRAN,

GOVERNOR.

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GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 2880|Leg.A2|85|Law. *Dated, Trivandrum, 17th April, 1985| 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985 is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33/1585/MC.

ORDINANCE No. 23 OF 1985

THE PAYMENT OF SALARIES AND ALLOWANCES (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Payment of Salaries and Allowances Act, 1951.

Preamble.—WHEREAS the Payment of Salaries and Allowances (Amendment) Ordinance, 1985 (7 of 1985) was promulgated by the Governor of Kerala on the 27th day of February, 1985;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution fo India the said Ordinance will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Payment of Salaries and Allowances (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 28th day of February, 1985.

2. *Act XIV of 1951 to be temporarily amended.*—During the period of operation of this Ordinance, the Payment of Salaries and Allowances Act, 1951 (XIV of 1951) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 10.*—In sub-section (1) of section 10 of the principal Act, after the words "make rules", the words, ", either prospectively or retrospectively," shall be inserted.

4. *Repeal and saving.*—(1) The Payment of Salaries and Allowances (Amendment) Ordinance, 1985 (7 of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 3778|Leg.B2|85|Law. *Dated, Trivandrum, 17th April, 1985|*
27th Chaithra, 1907.

The following Ordinance promulgated by the Governor on the 17th day of April, 1985 is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

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TRIVANDRUM, 1985.

33/1586/MC.

ORDINANCE No. 24 OF 1985

THE KERALA FISHERMEN WELFARE SOCIETIES (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Fishermen Welfare Societies Act, 1980.

Preamble.—WHEREAS the Kerala Fishermen Welfare Societies (Second Amendment) Ordinance, 1984 (77 of 1984), was promulgated by the Governor of Kerala on the 28th day of November, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance will cease to operate on the 17th day of April, 1985:

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Fishermen Welfare Societies (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 29th day of November, 1984.

2. *Act 7 of 1981 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Fishermen Welfare Societies Act, 1980 (7 of 1981) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 5.

3. *Amendment of section 2.*—In clause (d) of section 2 of the principal Act, for the word "Government", the words "Kerala State Co-operative Federation for Fisheries Development" shall be substituted.

4. *Amendment of section 15.*—In sub-section (4) of section 15 of the principal Act, for the word "Government", the words "Kerala State Co-operative Federation for Fisheries Development" shall be substituted.

5. *Amendment of section 32.*—In section 32 of the principal Act, after the word "society", the words "or an officer appointed under the provisions of this Act" shall be inserted.

6. *Repeal and saving.*—(1) The Kerala Fishermen Welfare Societies (Second Amendment) Ordinance, 1984 (77 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 3943|Leg.B2|85|Law. *Dated, Trivandrum, 17th April, 1985| 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985 is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

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33/1587/MC.

ORDINANCE No. 25 OF 1985

THE KERALA TOLLS (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Tolls Act, 1976.

Preamble.—WHEREAS the Kerala Tolls (Amendment) Ordinance, 1983 (41 of 1983), was promulgated by the Governor of Kerala on the 23rd day of November, 1983;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Tolls (Amendment) Ordinance, 1984 (10 of 1984), was promulgated by the Governor of Kerala on the 5th day of January, 1984;

AND WHEREAS a Bill to replace Ordinance 10 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 10 of 1984, the Kerala Tolls (Amendment) Ordinance, 1984 (23 of 1984), was promulgated by the Governor of Kerala on the 10th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 23 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 23 of 1984, the Kerala Tolls (Amendment) Ordinance, 1984 (45 of 1984), was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 45 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 45 of 1984, the Kerala Tolls (Amendment) Ordinance, 1984 (83 of 1984), was promulgated by the Governor of Kerala on the 28th day of November, 1984;

AND WHEREAS a Bill to replace Ordinance 83 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 83 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Tolls (Amendment) Ordinance, 1985.

(2) Sub-section (2) of section 4 shall be deemed to have come into force on the 23rd day of November, 1983 and the remaining provisions of this Ordinance shall be deemed to have come into force on the 29th day of November, 1984.

2. *Act 6 of 1977 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Tolls Act, 1976 (6 of 1977) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

3. *Amendment of section 2.*—In section 2 of the principal Act, in clause (a), for the words "fifteen lakhs rupees", the words "twenty-five lakhs rupees" shall be substituted.

4. *Amendment of section 3.*—In section 3 of the principal Act,—

(1) in sub-section (1), for the figures, letters and words "1st day of January, 1976", the figures, letters and words "1st day of July, 1983" shall be substituted.

(2) to sub-section (1), the following proviso shall be added, namely:—

"Provided that if the Government are of opinion that it is necessary in the public interest so to do, they may, by notification in the Gazette, specify any bridge in respect of which no toll shall be leviable under this sub-section.".

5. *Repeal and saving.*—(1) The Kerala Tolls (Amendment) Ordinance, 1984 (83 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

Government of Kerala
1985

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 [No. 351

GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 6069/Leg.B1/85/Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33|1598|MC.

ORDINANCE No. 34 OF 1985

THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Co-operative Societies Act, 1969

Preamble.—WHEREAS the Kerala Co-operative Societies (Amendment) Ordinance, 1985 (2 of 1985) was promulgated by the Governor of Kerala on the 22nd day of February, 1985;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immédiate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Co-operative Societies (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 25th day of February, 1985.

2. *Act 21 of 1969 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 5.

3. *Amendment of section 2.*—In section 2 of the principal Act,—

(1) after clause (o), the following clause shall be inserted, namely:—

"(oa) "primary credit society" means a society other than an apex or central society which has as its principal object the raising of funds to be lent to its members.";

(2) after clause (q), the following clauses shall be inserted, namely:—

"(qa) "Scheduled Castes" means the Scheduled Castes in relation to the State of Kerala as specified in the Constitution (Scheduled Castes) Order, 1950;

(qb) "Scheduled Tribes" means the Scheduled Tribes in relation to the State of Kerala as specified in the Constitution (Scheduled Tribes) Order, 1950;".

4. *Insertion of new section 28A.*—After section 28 of the principal Act, the following section shall be inserted, namely:—

"28A. *Reservation for women members and members belonging to Scheduled Castes or Scheduled Tribes in the Committee.*—(1) Notwithstanding anything contained in sub-section (1) of section 28, there shall be reserved in the committee of every primary credit society, one seat for a woman member and one seat for a member belonging to the Scheduled Castes or Scheduled Tribes and for that purpose, the society may, if they consider it necessary so to do, increase the total number of members of the committee by two more members.

(2) Nothing contained in sub-section (1) shall prevent the women members and members belonging to the Scheduled Castes or Scheduled Tribes from being elected to the non-reserved seats in the committee.".

5. *Amendment of section 80.*—In section 80 of the principal Act, after sub-section (3), the following sub-section shall be added namely:—

"(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), ten per cent of the posts of officers and servants of every society shall be reserved for appointment from persons belonging to the Scheduled Castes and Scheduled Tribes.".

6. *Repeal and saving.*—(1) The Kerala Co-operative Societies (Amendment) Ordinance, 1985 (2 of 1985) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

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1985

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KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 [No. 354

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (MS) 10/85/LBR. *Dated, Trivandrum, 3rd April,* 1985.

S. R. O. No. 526/85.—WHEREAS the Government of Kerala is of opinion that it is necessary in the public interest to add the industry specified below to the First Schedule to the Industrial Disputes Act, 1947 (Central Act 14 of 1947);

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 40 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Kerala hereby add the said industry to the First Schedule to the said Act, namely:—

"Item No. 21, All export oriented units and all other units incidental thereto in the Cochin Export Processing Zone".

By order of the Governor,

U. MAHABALA RAO,
Commissioner and Secretary.

33/1605/MC.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport).

Government consider it necessary to maintain harmonious industrial relations in the Cochin Export Processing Zone. Government therefore intend to declare all export oriented units and all other units incidental thereto in the CEPZ as Public Utility Services by adding the above units to the First Schedule. This notification is intended to achieve the above purpose.

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KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 [No. 325

GOVERNMENT OF KERALA

Home (SS-A) Department

NOTIFICATION

No. 14995|SSA2|85|Home. *Dated, Trivandrum, 17th April, 1985.*

S. R. O. No. 525|85.—WHEREAS the Government of Kerala by Notification No. 66232|SSA2|84|Home dated the 12th November, 1984 published as S. R. O. No. 1381|84 in Kerala Gazette Extraordinary No. 966 dated the 12th November, 1984, appointed a Commission of Inquiry consisting of Mrs. Elizabath Mathai Idiculla, Retired District Judge for the purpose of making an inquiry into a definite matter of public importance, namely, the drowning tragedy that took place on the 7th November, 1984 at Moonnar resulting in loss of lives and injuries to several persons;

AND WHEREAS Mrs. Elizabath Mathai Idiculla, has since relinquished her membership of the said Commission of Inquiry;

AND WHEREAS it is necessary to appoint another Commission for the purpose of making an inquiry into the said matter;

NOW, THEREFORE, in exercise of powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952), and in supersession of the notification referred to in the first paragraph above, the Government of Kerala hereby appoint a Commission of Enquiry consisting of Shri M. Prahladan, Retired District Judge.

The terms of reference of the Commission of Inquiry shall be to enquire into and report on—

(i) the events, the circumstances and the causes thereof that led to the drowning tragedy on the 7th November, 1984 at Munnar, resulting in injuries and loss of lives to several persons;

(ii) whether the accident was due to the lapses on the part of any person or persons and if so, what are the lapses and who are responsible;

(iii) the measures to be taken to prevent such accidents in future; and

(iv) all other matters incidental to and arising out of the incident under enquiry.

The Commission shall complete the enquiry and submit its report to Government within three months from the date of this Notification.

The Government are of the opinion that having regard to the nature of the enquiry to be made and other circumstances of the case, that all provisions of sub-sections (2), (3), (4) and (5) of section 5 of the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952), shall be made applicable to the Commission and therefore the Government hereby direct under sub-section (1) of the said section 5 that all the provisions aforesaid shall apply to the Commission.

By order of the Governor,

N. KALEESWARAN,

Commissioner and Secretary to Government.

Explanatory Note

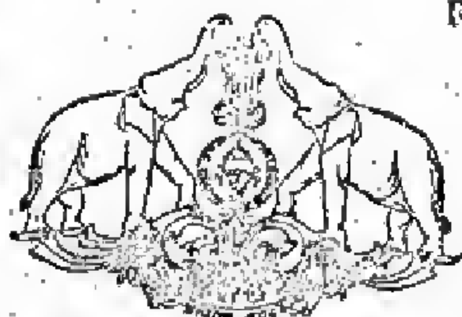
(This does not form part of the notification but is intended to indicate its general purport).

Government had appointed Mrs. Elizabath Mathai Idiculla, Retired District Judge as Commission of Inquiry for bringing to light the causes and facts leading to the collapse of the suspension bridge across the river Muthirapuzha, Munnar on 7th November, 1984 and consequent loss of lives and injuries to several persons. Since she has relinquished her appointment as Commission of Inquiry, Government have now decided to appoint Shri M. Prahladan, Retired District Judge as Commission of Inquiry in her place. The notification is intended to achieve the above object.

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1985

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KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 10841/Leg. B2/84/Law. *Dated, Trivandrum, 17th April, 1985*
27th Chaithra, 1907.

The following Ordinance promulgated by the Governor on the 17th day of April, 1985 is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33/1588/MC.

ORDINANCE No. 26 OF 1985

THE KERALA PUBLIC BUILDINGS (EVICTION OF UNAUTHORISED OCCUPANTS) AMENDMENT ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Public Buildings (Eviction of Unauthorised Occupants) Act, 1968.

Preamble.—WHEREAS the Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Ordinance, 1983 (4 of 1983), was promulgated by the Governor of Kerala on the 4th day of February, 1983;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of February, 1983 and ended on the 30th day of March, 1983;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Ordinance, 1983 (14 of 1983), was promulgated by the Governor of Kerala on the 6th day of April, 1983;

AND WHEREAS a Bill to replace Ordinance 14 of 1983 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 20th day of June, 1983 and ended on the 4th day of August, 1983;

AND WHEREAS in order to keep alive the provisions of Ordinance 14 of 1983, the Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Ordinance, 1983 (27 of 1983), was promulgated by the Governor of Kerala on the 20th day of August, 1983;

AND WHEREAS a Bill to replace Ordinance 27 of 1983 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983;

AND WHEREAS in order to keep alive the provisions of Ordinance 27 of 1983, the Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Ordinance, 1984 (11 of 1984), was promulgated by the Governor of Kerala on the 5th day of January, 1984;

AND WHEREAS a Bill to replace Ordinance 11 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 11 of 1984, the Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Ordinance, 1984 (24 of 1984), was promulgated by the Governor of Kerala on the 10th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 24 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 24 of 1984, the Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Ordinance, 1984 (51 of 1984), was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 51 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 51 of 1984, the Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Ordinance, 1984 (84 of 1984), was promulgated by the Governor of Kerala on the 28th day of November, 1984;

AND WHEREAS a Bill to replace Ordinance 84 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 84 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Ordinance, 1985.

(2) It shall be deemed to have come into force on the 7th day of February, 1983.

2. *Act 25 of 1968 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Public Buildings (Eviction of Unauthorised

Occupants) Act, 1968 (25 of 1968) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 9 (both inclusive).

3. *Amendment of section 2.*—In section 2 of the principal Act,—

(1) clause (a) shall be re-lettered as clause (aaa) and before that clause, the following clauses shall be inserted, namely:—

"(a) "company" means a company in which not less than fifty-one per cent of the paid up share capital is held by the Government of Kerala or jointly by the Central Government and the Government of Kerala and includes a company which is a subsidiary of any such company;

(aa) "corporation" means a corporation established or constituted by or under any Central or State Act and owned or controlled by the Government of Kerala;";

(2) in clause (d), in the opening paragraph, after the words "or a local authority", the words "or a company or a corporation" shall be inserted.

4. *Amendment of section 3.*—In section 3 of the principal Act, for the proviso to clause (a), the following proviso shall be substituted, namely:—

"Provided that—

(i) in the case of a local authority, the executive authority of that local authority; and

(ii) in the case of a company or a corporation, an officer of that company or corporation;

shall be appointed as estate officer;".

5. *Amendment of section 6.*—In section 6 of the principal Act, in sub-section (2), after the words "or the local authority", the words "or the company or the corporation" shall be inserted.

6. *Amendment of section 12.*—In section 12 of the principal Act, in sub-section (2), for the words "or to a local authority", the words "or a local authority or a company or a corporatoin" shall be substituted.

7. *Amendment of section 13.*—In section 13 of the principal Act, for the words, "or to a local authority", the words "or a local authority or a company or a corporation" shall be substituted.

8. *Amendment of section 14.*—In section 14 of the principal Act, after the words "or the local authority", the words "or the company or the corporation" shall be inserted.

9. *Amendment of section 17.*—In section 17 of the principal Act, after the words "or a local authority", the words "or a company or a corporation" shall be inserted.

10. *Repeal and saving.*—(1) The Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Ordinance, 1984 (84 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

Reg. No. KL/TV(N)/1!



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 [No. 349

GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 6697/Leg.B1/85/Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33|1596|MC.

ORDINANCE No. 32 OF 1985

THE KERALA AGRICULTURAL UNIVERSITY (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Agricultural University Act, 1971.

Preamble.—WHEREAS the Kerala Agricultural University (Amendment) Ordinance, 1984 (63 of 1984) was promulgated by the Governor of Kerala on the 3rd day of August, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 63 of 1984, the Kerala Agricultural University (Amendment) Ordinance, 1984 (79 of 1984), was promulgated by the Governor of Kerala on the 28th day of November 1984;

AND WHEREAS a Bill to replace Ordinance 79 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 79 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Agricultural University (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 6th day of August, 1984.

2. *Act 33 of 1971 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Agricultural University Act, 1971 (33 of 1971) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment to section 42.*—In section 42 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

"(4) The normal retirement age of the Deans of Faculties, the Director of Student Welfare, the Director of Research, the Director of Extension, the Librarian and the teachers of the University shall be sixty years.

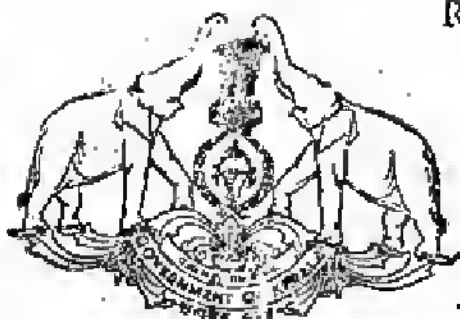
(5) The normal retirement age of Officers of the University other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor and those specified in sub-section (4), shall be fifty-five years.".

4. *Repeal and saving.*—(1) The Kerala Agricultural University (Amendment) Ordinance, 1984 (79 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 2879/Leg.B1/85/Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33|1599|MC.

ORDINANCE No. 35 OF 1985

THE KERALA FOREST (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Forest Act, 1961.

Preamble.—WHEREAS the Kerala Forest (Amendment) Ordinance, 1984 (65 of 1984) was promulgated by the Governor of Kerala on the 31st day of August, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 65 of 1984, the Kerala Forest (Amendment) Ordinance, 1984 (78 of 1984) was promulgated by the Governor of Kerala on the 28th day of November, 1984;

AND WHEREAS a Bill to replace Ordinance 78 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 78 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Forest (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 1st day of September, 1984.

2. *Act 4 of* 1962 *to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Forest Act, 1961 (4 of 1962) (hereinafter referred

to as the principal Act), shall have effect subject to the amendments specified in section 3.

3. *Insertion of new Chapter XA.*—In the principal Act, after Chapter X the following Chapter shall be inserted, namely:—

"CHAPTER XA

FOREST DEVELOPMENT TAX

75A. *Levy of forest development tax.*—(1) Notwithstanding anything contained in this Act, in respect of forest produce disposed of by the Government by sale, there shall be levied and collected a tax at the rate of five per cent of the amount of consideration paid therefor.

Explanation.—In this sub-section, the term "sale" shall have the meaning assigned to it in the Kerala General Sales Tax Act, 1963 (15 of 1963).

(2) The tax payable under sub-section (1) in respect of any forest produce shall be collected along with the consideration paid therefor.

(3) The tax levied under sub-section (1) in respect of any forest produce shall be in addition to and not in lieu of any tax payable in respect of such forest produce under the Kerala General Sales Tax Act, 1963 (15 of 1963) or under any other law for the time being in force.

75B. *Establishment of Kerala Forest Development Fund.*—(1) There shall be established for the State a Fund to be called the Kerala Forest Development Fund (hereinafter in this section referred to as the Development Fund).

(2) The proceeds of the tax levied and collected under section 75A shall first be credited to the Consolidated Fund of the State and after deducting the expenses for collection as determined by the Government, the remaining amount shall, under appropriation duly made by law in this behalf, be entered into and transferred to the Development Fund.

(3) Any amount transferred to the Development Fund shall be charged on the Consolidated Fund of the State.

(4) No sum shall be paid or applied from and out of the Development Fund except as provided in sub-section (5).

(5) The amount standing to the credit of the Development Fund shall be expended in such manner and subject to such conditions as may be prescribed by rules made under this Act for the purposes and to the extent specified below:

(a) sixty-six and two-thirds per cent, for the planting of soft-wood trees and other species of trees, which form raw material for industries; and

(b) thirty-three and one-third per cent, for forest research.

(6) The Development Fund shall be held and administered on behalf of the Government by an officer not below the rank of Chief Conservator of Forests, subject to such general or special directions as may be given by the Government from time to time.".

4. *Repeal and saving.*—(1) The Kerala Forest (Amendment) Ordinance, 1984 (78 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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Government of Kerala
1985

Reg. No, KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 [No. 355

GOVERNMENT OF KERALA

General Education (F) Department

NOTIFICATION

No. 53580/F1/84/G. Edn.

Dated, Trivandrum, 28th March, 1985.

S. R. O. No. 527/85.—Whereas, the Government are satisfied that in the interests of the pupils of the S. K. V. Lower Primary School, Parapparamukal, Palode in Trivandrum District, it is necessary to take over the management of the said school for a period of five years.

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 14 of the Kerala Education Act, 1958, (6 of 1959) read with sub rule (5) of rule 1 in Chapter XX of the Kerala Education Rules 1959, it is hereby notified that the management of the S. K. V. Lower Primary School, Parapparamukal, Palode in Trivandrum District, shall be taken over by the Government of Kerala for a period of five years after the expiry of seven days from the date of publication of this notification in the Gazette.

By order of the Governor,

J. Lalithambika,
Secretary to Government.

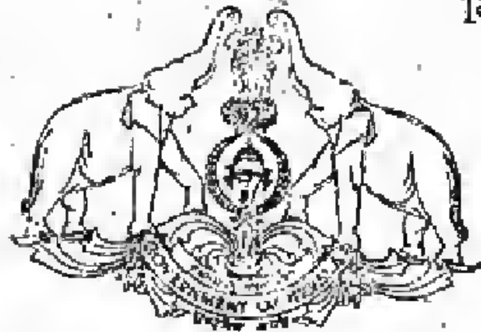
33/1606/MC

Explanatory Note

The S. K. V. Lower Primary School, Parapparamukal, Palode in Trivandrum, District is not functioning properly for want of proper management. Government have decided in the interest of the pupils of the said school to take over the management of the said school for a period of five years in order to ensure the smooth functioning of the school. The Notification is intended to achieve the above object.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 [No. 323

GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 3431|Leg. C1|85|Law. *Dated, Trivandrum, 17th April, 1985|27th Chaithra, 1907.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 17th day of April, 1985.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1985.

33|1562|MC.

ACT 12 OF 1985

THE GANDHIJI UNIVERSITY ACT, 1985

An Act to establish and incorporate a University at Kottayam by the name Gandhiji University.

Preamble.—WHEREAS it is considered necessary to establish a new teaching and affiliating University in the State to provide for the urgent development of higher education in the areas comprised in the Kottayam, Ernakulam and Idukki revenue districts, the Kuttanad taluk of the Alleppey revenue district and the Kozhencherry, Mallappally, Thiruvalla and Ranni taluks of the Pathanamthitta revenue district of the State;

BE it enacted in the Thirty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Gandhiji University Act, 1985.

(2) It shall be deemed to have come into force on the 2nd day of October, 1983.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "Academic Council" means the Academic Council of the University;

(2) "affiliated college" means a college affiliated to the University in accordance with the provisions of this Act and the Statutes and in which instruction is provided in accordance with the provisions of the Statutes, Ordinances and Regulations;

(3) "annual meeting" means one of the ordinary meetings of the Senate held every year under sub-section (1) of section 20 and declared by the Statutes to be the annual meeting of the Senate;

(4) "Appellate Tribunal" means the Appellate Tribunal constituted under sub-section (1) of section 69;

(5) "Board of Studies" means a Board of Studies of the University;

(6) "Chancellor" means the Chancellor of the University;

(7) "college" means an institution maintained by, or affiliated to the University, in which instruction is provided in accordance with the provisions of the Statutes, Ordinances and Regulations;

(8) "department" means a department designated as such by the Ordinances or Regulations with reference to a subject or group of subjects;

(9) "educational ageney" means any person or body of persons who or which establishes and maintains a private college or more than one private college;

(10) "faculty" means a faculty of the University;

(11) "Government college" means a college maintained by the Government and affiliated to the University;

(12) "hostel" means a unit of residence for the students of the University, or the colleges or institutions maintained by, or affiliated to, the University in accordance with the provisions of this Act or the Statutes or Ordinances;

(13) "junior college" means a college imparting instructions in Pre-Degree courses only;

(14) "non-teaching staff" of the University or a college means the employees of the University or that college, other than teachers;

(15) "prescribed" means prescribed by the Statutes, Ordinances, Regulations, rules or bye-laws made under this Act;

(16) "principal" means the head of a college;

(17) "private college" means a college maintained by an educational agency other than the Government or the University and affiliated to the University;

(18) "Pro-Chancellor" means the Pro-Chancellor of the University;

(19) "professional college" means a college in which instruction is given in any of the following subjects, namely:—

(i) Engineering and Technology;

(ii) Allopathic Medicine and Para Medical Courses;

(iii) Dental Medicine;

(iv) Ayurvedic Medicine;

(v) Homoeopathic Medicine;

(vi) Law; and

(vii) Education;

(20) "Pro-Vice-Chancellor" means the Pro-Vice-Chancello of the University;

(21) "recognised institution" means an institution for research or special studies, other than an affiliated college, recognised as such by the University;

(22) "registered graduates" means graduates registered under the provisions of this Act and the Statutes and includes graduates deemed to be registered graduates;

(23) "Senate" means the Senate of the University;

(24) "State" means the State of Kerala;

(25) "Statutes", "Ordinances", "Regulations", "bye-laws" and "rules" means respectively the "Statutes", "Ordinances", "Regulations", "bye-laws" and "rules" of the University;

(26) "student" means a part-time or full-time student receiving instruction or carrying on research in any of the colleges or recognised institutions;

(27) "Students' Council" means the Students' Council of the University;

(28) "Syndicate" means the Syndicate of the University;

(29) "teacher" means a principal, professor, associate professor, assistant professor, reader, lecturer, instructor, or such other person imparting instruction or supervising research in any of the colleges or recognised institutions and whose appointment has been approved by the University;

(30) "teacher of the University" means a person employed as teacher in any institution maintained by the University;

(31) "University" means the Gandhiji University constituted under this Act;

(32) "University area" means the area to which the jurisdiction of the University extends under sub-section (1) of section 4;

(33) "University Fund" means the Gandhiji University Fund established under sub-section (1) of section 46;

(34) "Vice-Chancellor" means the Vice-Chancellor of the University.

CHAPTER II

THE UNIVERSITY

3. *The University.*—(1) The Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Pro-Vice-Chancellor, if any, and the members of the Senate, the Syndicate and the Academic Council; for the time being, shall constitute a body corporate by the name of the Gandhiji University.

(2) The headquarters of the University shall be at Kottayam.

(3) The University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

4. *Territorial limits.*—(1) The jurisdiction of the University shall extend to the Kottayam, Ernakulam and Idukki revenue districts, the Kuttanad taluk of the Alleppey revenue district and the Kozhencherry, Mallappally, Thiruvalla and Ranni taluks of the Pathanamthitta revenue district of the State.

(2) No educational institution situated beyond the territorial limits of the University shall, save with the sanction of the Chancellor and the Government, be affiliated to the University and no educational institution within the territorial limits of the University shall, save with the sanction of the Chancellor and the Government, seek or continue affiliation to any other University established by law.

5. *Powers of the University.*—Subject to the provisions of this Act, the University shall have the following powers, namely:—

(i) to provide for instruction and training in such branches of learning as the University may deem fit and to make provision

for research and for the advancement and dissemination of knowledge;

(ii) to institute degrees, titles, diplomas and other academic distinctions;

(iii) to hold examinations and to confer degrees and other academic distinctions on persons who—

(a) shall have pursued a prescribed course of study in a college under the University, unless exempted therefrom in the manner prescribed, and shall have passed the prescribed examination; or

(b) shall have carried on research under prescribed conditions and which has been duly evaluated;

(iv) to confer honorary degrees or other distinctions on distinguished persons in accordance with the conditions to be prescribed in the Statutes;

(v) to grant diplomas, certificates or other distinctions to persons who shall have pursued a prescribed course of study under prescribed conditions;

(vi) to withdraw or cancel degrees, titles, diplomas, certificates or other distinctions under conditions that may be prescribed by the Statutes, after giving the person affected a reasonable opportunity to present his case;

(vii) to maintain, supervise and control the residence and discipline of students of the University, colleges and recognised institutions and to make arrangements for promoting their health and general welfare;

(viii) to recognise hostels which are maintained by bodies other than the University and to withdraw such recognition;

(ix) to exercise such control over the students as will ensure their physical and moral well-being;

(x) to constitute a Board to entertain and if it thinks fit to adjudicate and to redress any grievances of the students of colleges, who may for any reason be aggrieved otherwise than by an act of any court;

(xi) to fix the fees payable to the University and to demand and receive such fees;

(xii) to fix and regulate, with the previous sanction of the Government, the fees payable in colleges and recognised institutions affiliated to the University;

(xiii) with the previous sanction of the Government, to regulate the emoluments and pattern and to prescribe the duties and conditions of service of teachers and non-teaching staff in private colleges;

(xiv) to hold and manage endowments and bursaries and to institute and award fellowships, scholarships, studentships, medals and prizes and to organise exhibitions;

(xv) to institute and provide funds wherever necessary for the maintenance of—

(a) a Students' Advisory Bureau;

(b) an Employment Bureau;

(c) a University Union for Students;

(d) University Athletic Clubs;

(e) the National Cadet Corps;

(f) the National Service Corps;

(g) University Extension Boards;

(h) Students' Cultural and Debating Societies;

(i) a Translation and Publication Bureau; and

(j) co-operative societies and other similar institutions for promoting the welfare of students and employees of the University;

(xvi) to co-operate with other Universities or any authorities or associations in such manner and for such purposes as the University may determine;

(xvii) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University as a teaching and examining body, and to cultivate and promote arts, science and other branches of learning;

(xviii) to take and hold any property, movable or immovable, which may become vested in it for the purpose of the University by purchase, grant, testamentary disposition or otherwise and to grant, demise, alienate or otherwise dispose of all or any of the properties belonging to the University and also to do all other acts incidental or appertaining to a body corporate;

(xix) to direct, manage and control all immovable and movable properties transferred to the University by the Government;

(xx) to co-ordinate, supervise, regulate and control the conduct of teaching and research work in the affiliated colleges and the institutions recognised by the University;

(xxi) to define the powers and duties of the officers of the University other than those provided in this Act;

(xxii) to provide for the inspection of affiliated colleges and to issue such directions as the University may deem fit;

(xxiii) to establish, maintain and manage colleges, institutes of research and other institutions of higher studies;

(xxiv) to affiliate to itself colleges in accordance with the provisions of this Act and the Statutes, Ordinances and Regulations and to withdraw affiliation of colleges;

(xxv) to institute professorships, readerships, lecturerships and any other teaching and research posts required by the University and to appoint persons to such professorships, readerships, lecturerships and other teaching and research posts;

(xxvi) to establish, maintain and manage hostels;

(xxvii) with the previous sanction of the Government as regards the purpose and amount of loan and subject to such conditions as may be specified by the Government as to security and rate of interest, to borrow any sum of money from the Central Government, any other Government, or any other incorporated body; and

(xxviii) generally to do such other acts for carrying out the purposes of this Act.

6. *University open to all classes and creeds.*—No person shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence, language, political opinion or any of them, be ineligible for, or discriminated against, in respect of any employment or office under the University or membership of any of the authorities or bodies of the University or admission to any degree or course of study in the University:

Provided that the University may, in consultation with the Government, affiliate any college or recognise any institution, exclusively for women either for education, instruction or residence, or reserve for women or members of socially and educationally backward classes or of Scheduled Castes or Scheduled Tribes, places for the purpose of admission as students in any college or institution maintained or controlled by the University.

CHAPTER III

THE CHANCELLOR, PRO-CHANCELLOR AND OFFICERS OF THE UNIVERSITY

7. *The Chancellor.*—(1) The Governor of Kerala shall, by virtue of his office, be the Chancellor of the University.

(2) The Chancellor shall be the head of the University and shall, when present, preside at meetings of the Senate, and at any convocation of the University.

(3) All the authorities of the University shall be subordinate to the Chancellor.

(4) The Chancellor may, by order in writing, annul any proceeding of any of the authorities of the University which is not in conformity with this Act, the Statutes, the Ordinances, the Regulations, the rules or the bye-laws:

Provided that, before making any such order, the Chancellor shall call upon such authority to show cause why such an order should not be made and consider the cause, if any, shown by such authority within a reasonable time.

(5) The Chancellor shall, when an emergency arises, have the right to suspend or dismiss any of the authorities of the University and to take measures for the interim administration of the University.

(6) Every proposal for the conferment of an honorary degree shall be subject to confirmation by the Chancellor.

(7) An appeal shall lie to the Chancellor against any order of dismissal passed by the Syndicate or the Vice-Chancellor against any person in the service of the University.

(8) An appeal under sub-section (7) shall be filed within sixty days from the date of service of the order of dismissal on the person concerned.

(9) The Chancellor shall, before passing any order on an appeal under sub-section (7) refer the matter for advice to a Tribunal appointed by him for the purpose.

(10) The Chancellor shall have power to remove the Vice-Chancellor or the Pro-Vice-Chancellor from office by an order in writing on charges of misappropriation or mismanagement of funds or misbehaviour:

Provided that such charges are proved by an enquiry conducted by a person who is or has been a Judge of the High Court or the supreme Court appointed by the Chancellor for the purpose:

Provided further that the Vice-Chancellor or the Pro-Vice-Chancellor shall not be removed under this section unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken against him.

(11) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes.

8. *The Pro-Chancellor.*—(1) The Minister for the time being administering the subject of education in the State shall be the Pro-Chancellor of the University.

(2) In the absence of the Chancellor or during his inability to act, the Pro-Chancellor shall exercise all the powers and perform all the functions of the Chancellor.

9. *Officers of the University.*—The following shall be the officers of the University, namely:—

(i) the Vice-Chancellor;

(ii) the Pro-Vice-Chancellor;

(iii) the Registrar;

(iv) the Controller of Examinations;

(v) the Finance Officer; and

(vi) such other officers in the service of the University, as may be declared by the Statutes to be officers of the University.

10. *The Vice-Chancellor.*—(1) The Vice-Chancellor shall be appointed by the Chancellor on the recommendation as hereinafter provided of a Committee appointed by him for the purpose (hereinafter referred to as the Committee).

(2) The Committee shall consist of three members, one elected by the Senate, one nominated by the Chairman of the University Grants Commission and the third nominated by the Chancellor:

Provided that no person holding any office under the University shall be nominated as a member of the Committee.

(3) The Chancellor shall appoint one of the members of the Committee to be its convener.

(4) The Committee shall make its recommendation within a period of three months of its appointment.

(5) In case the Committee unanimously recommends the name of only one person, the Chancellor shall appoint that person to be the Vice-Chancellor.

(6) In case the Committee is unable to recommend a name unanimously, the Vice-Chancellor shall be appointed by the Chancellor from among a panel of three names submitted to him by the Committee within the period specified in sub-section (4).

(7) In case the Committee fails to make a unanimous recommendation as provided in sub-section (5) or to submit a panel as provided in sub-section (6), the Vice-Chancellor shall be appointed by the Chancellor from among a panel of three names submitted to him by a majority of the members of the Committee within the period specified in sub-section (4).

(8) Non-submission of a name under sub-section (7) by any member of the Committee shall not invalidate the appointment of the Vice-Chancellor.

(9) No person who is more than sixty years of age shall be appointed as Vice-Chancellor.

(10) The Vice-Chancellor shall hold office for a term of four years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that a person shall not be appointed as Vice-Chancellor for more than two terms.

(11) The remuneration payable to, and the other conditions of service of the Vice-Chancellor shall be determined by the Chancellor.

(12) The Vice-Chancellor shall be the principal academic and executive officer of the University and all the Officers of the University shall be under his administrative control.

(13) The Vice-Chancellor shall be the Chairman of the Senate, the Syndicate, the Academic Council, the Students' Council and the Finance Committee and shall be entitled to be present at and to address any meeting of any authority of the University, but shall not be entitled to vote thereat unless he is a member of the authority concerned.

(14) In the event of equality of votes at any meeting of the Senate, the Syndicate or the Academic Council or of any other authority, at which the Vice-Chancellor is the Chairman, he shall have and exercise a casting vote.

(15) It shall be the duty of the Vice-Chancellor to ensure that the provisions of this Act, the Statutes, the Ordinances, the Regulations, the rules and the bye-laws are faithfully observed and carried out, and he shall have all powers necessary for this purpose.

(16) The Vice-Chancellor shall have the right of visiting and inspecting colleges and other institutions maintained by, or affiliated to, the University.

(17) If at any time, except when the Syndicate or the Academic Council is in session, the Vice-Chancellor is satisfied that an emergency has arisen requiring him to take immediate action involving the exercise of any power vested in the Syndicate or the Academic Council by or under this Act, the Vice-Chancellor may take such action as he deems fit and shall, at the next session of the Syndicate or the Academic Council, as the case may be, report the action taken by him to that authority for such action as it may consider necessary.

(18) Subject to the provisions of the Statutes and the Ordinances, the Vice-Chancellor shall have power to appoint, suspend, dismiss or otherwise punish any member of the establishment of the University below the rank of Deputy Registrar:

Provided that he may delegate any of his powers under this sub-section to the Pro-Vice-Chancellor or the Registrar.

(19) The Vice-Chancellor shall have power to convene meetings of the Senate, the Syndicate, the Academic Council and any other authorities of the University.

(20) Notwithstanding anything contained in this Act or in the Statutes or Ordinances made or deemed to have been made thereunder, the Vice-Chancellor may, if he is satisfied that the number of examiners in the panel of examiners approved by the Syndicate for the conduct of an examination is not sufficient for the conduct of that examination and that approval of another panel of examiners by the Syndicate will entail delay in the conduct of such examination, nominate such additional number of examiners as may be necessary for the conduct of such examination.

(21) Any person nominated by the Vice-Chancellor under sub-section (20) shall be deemed to be an examiner included in the panel approved by the Syndicate.

(22) It shall be the duty of the Vice-Chacellor to see that the proceedings of the University are carried on in accordance with the provisions of this Act, the Statutes, the Ordinances, the Regulations, the rules and the bye-laws and to report to the

Chancellor every proceeding which is not in conformity with such provisions.

(23) The Vice-Chancellor shall exercise such other powers and perform such other functions as may be prescribed by the Statutes.

(24) In the event of a temporary vacancy occurring in the office of the Vice-Chancellor, or where the Vice-Chancellor is temporarily absent, the Pro-Vice-Chancellor shall exercise the powers and perform the duties of the Vice-Chancellor.

(25) In the event of a permanent vacancy occurring in the office of the Vice-Chancellor, the Chancellor shall initiate action for the appointment of the Vice-Chancellor within one month of the occurrence of the vacancy and pending such appointment make necessary arrangements for exercising the powers and performing the duties of the Vice-Chancellor.

11. *The Pro-Vice-Chancellor.*—(1) The Chancellor may, if he considers it necessary, appoint a Pro-Vice-Chancellor.

(2) No person who is more than fifty-six years of age shall be appointed as Pro-Vice-Chancellor.

(3) The Pro-Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Pro-Vice-Chancellor shall hold office for a term of four years and shall be eligible for re-appointment.

(5) The salary and other conditions of service of the Pro-Vice-Chancellor shall be determined by the Chancellor.

(6) Subject to the provisions of this Act and the Statutes, Ordinances and Regulations, the Chancellor may in consultation with the Vice-Chancellor determine the powers and functions of the Pro-Vice-Chancellor.

12. *The Registrar.*—(1) The Syndicate shall appoint a person by the Government from among a panel containing the names of two persons furnished by the Syndicate to the Government, as Registrar of the University for such period and on such terms as may be prescribed by the Statutes.

(2) The Registrar shall be a whole time salaried officer of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

(3) Suits by or against the University shall be instituted by or against the Registrar.

13. *The Controller of Examinations.*—(1) The Syndicate shall appoint a person selected by the Government from among a panel containing the names of two persons furnished by the Syndicate to the Government, as Controller of Examinations of the University for such period and on such terms as may be prescribed by the Statutes.

(2) The Controller of Examinations shall be a whole time salaried officer of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

14. *The Finance Officer.*—(1) The Syndicate shall appoint a person selected by the Government from among a panel containing the names of two persons furnished by the Syndicate to the Government, as Finance Officer of the University for such period and on such terms as may be prescribed by the Statutes.

(2) The Finance Officer shall be a whole time salaried officer of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

15. *Appointments to be notified.*—The appointments of the Vice-Chancellor, the Pro-Vice-Chancellor, the Registrar, the Controller of Examinations and the Finance Officer shall be notified in the Gazette.

CHAPTER IV

AUTHORITIES OF THE UNIVERSITY

16. *Authorities of the University.*—The following shall be authorities of the University, namely:—

(i) the Senate;

(ii) the Syndicate;

(iii) the Academic Council;

(iv) the Faculties;

(v) the Board of Studies;

(vi) the Students' Council;

(vii) the Finance Committee;

(viii) the Planning Board; and

(ix) such other boards or bodies of the University as may be declared by the Statutes to be authorities of the University.

17. *Senate*.—The Senate shall consist of the following members, namely:—

Ex officio Members

(1) The Chancellor.

(2) The Pro-Chancellor.

(3) The Vice-Chancellor.

(4) The Pro-Vice-Chancellor.

(5) The Finance Secretary to Government or an officer not below the rank of Joint Secretary nominated by him.

(6) The Director of Public Instruction.

(7) The Director of Collegiate Education.

(8) The Secretary to Government or an officer not below the rank of Joint Secretary to Government, General Education Department to be nominated by the Government.

(9) The Secretary to Government or an officer not below the rank of Joint Secretary to Government, Higher Education Department, to be nominated by the Government.

(10) The Director of Technical Education.

(11) The Director of Medical Education.

(12) The Chairman, State Advisory Board of Education.

(13) Seven heads of University departments who are not otherwise members of the Senate, to be nominated in the order of seniority by the Chancellor by rotation.

(14) Four Deans of the Faculties of the University who are not otherwise members of the Senate, to be nominated in the order of seniority by the Chancellor by rotation.

(15) The Chairman of the University Union.

Elected Members

(1) Eleven principals elected from among themselves of whom two shall be from among principals of Government Colleges,

one from among principals of professional colleges and one from among principals of junior colleges.

(2) Twenty-five members, not being persons eligible to be elected under item (1), (4), (5), (6), (9), (10), (11) or (12) or under item (1), (4), (5), (6), (9), (10), (11) or (12) under the heading "Elected Members" in section 17 of the Kerala University Act, 1974 or under item (1), (4), (5), (6), (9), (10), (11) or (12) under the heading "Elected Members" in section 17 of the Calicut University Act, 1975, elected by the registered graduates from among themselves, of whom one shall be a member of a Scheduled Caste, one shall be a member of a Scheduled Tribe, one shall be the holder of a medical degree and one shall be the holder of an engineering degree.

(3) Six members elected by the members of the Legislative Assembly of Kerala from among the members representing the electorate of the University area, of whom one shall be a member of a Scheduled Caste.

(4) Three members elected by the teachers of the University from among themselves.

(5) Three members elected by the teachers of Government colleges from among themselves.

(6) Sixteen members elected by the teachers of private colleges from among themselves.

(7) Three members elected by the Mayors of Municipal Corporations, the Chairmen of municipalities and the presidents of panchayats within the University area from among themselves, of whom one shall be the Mayor of a Municipal Corporation or the Chairman of a municipality.

(8) Two members elected by the registered Trade Unions in the University area designated by Statutes, from among their members.

(9) One member elected by the members of the non-teaching staff of the University from among themselves.

(10) Three members elected by the members of the non-teaching staff of the affiliated colleges from among themselves of whom one shall be a member of the non-teaching staff of a Government College.

(11) Three members elected by the managers of the private colleges in the University area from among themselves.

(12) Fifteen members elected by the members of the General Council of the University Union from among full-time students, of whom one shall be a post-graduate student, one shall be a research scholar, one shall be the student of a professional college, five shall be lady students, one shall be a member of a Scheduled Caste and one shall be a member of a Scheduled Tribe.

Other Members

(1) Two headmasters of High Schools and two teachers of schools, situated within the University area, nominated by the Chancellor.

(2) Not more than eleven members nominated by the Chancellor representing (i) recognised research institutions; (ii) recognised cultural associations; (iii) chambers of commerce; (iv) industries; (v) authors; (vi) journalists; (vii) lawyers; (viii) sports and games; (ix) linguistic minorities; (x) artists; and (xi) Anglo-Indians.

(3) Four students nominated by the Chancellor, one having outstanding academic ability in humanities, one having outstanding ability in science, one having outstanding ability in sports and one having outstanding ability in fine arts.

18. *Reconstitution of the Senate.*—(1) The Senate shall be reconstituted every four years.

(2) The term of office of any member referred to in items (13) and (14) under the heading "*Ex-officio* members" in section 17 shall be two years from the date of his nomination.

(3) Every member of the Senate, other than *ex-officio* members, shall, subject to the provisions of this Act and the Statutes, hold office until the next reconstitution of the Senate:

Provided that no member nominated or elected in his capacity as a member of a particular body or as the holder of a particular office shall hold office for a longer period than three months after he has ceased to be such member or holder of such office, unless in the meanwhile he again becomes a member of that electorate:

Provided further that where an elected or nominated member of the Senate is appointed temporarily to any office, by virtue of which he is entitled to be a member of the Senate *ex-officio*, he shall,

by notice in writing signed by him and communicated to the Vice-Chancellor within seven days from the date of his taking charge of his appointment, choose whether he will continue to be a member of the Senate by virtue of his election or nomination or whether he will vacate office as such member and become a member *ex-officio* by virtue of his appointment, and such choice shall be final:

Provided also that the term of office of a member referred to in item (12) under the heading "Elected Members" in section 17 or of a member referred to in item (3) under the heading "Other Members" in that section shall be one year from the date of his election or nomination, as the case may be.

Explanation.—For the removal of doubts it is hereby clarified that a member referred to in the preceding proviso shall not cease to be such member solely on the ground that he has ceased to be a student within the period of one year specified in that proviso.

(4) Notwithstanding anything contained in the first proviso to sub-section (3), a principal elected under item (1), or a teacher of a Government college elected under item (5), or a teacher of a private college elected under item (6), or a member of the non-teaching staff of an affiliated college elected under item (10), under the heading "Elected Members" in section 17 shall not cease to be a member of the Senate merely on the ground—

(a) that he has been transferred to an educational institution within the State, situated beyond the territorial limits of the University; or

(b) that the college of which he is the principal or in which he is a teacher or a member of the non-teaching staff has been transferred to another University; or

(c) in the case of a teacher, that he has been promoted as principal.

(5) Notwithstanding anything contained in this Act or in the Statutes, no person elected under item (2) under the heading "Elected members" in section 17 shall cease to be a member of the Senate merely on the ground that he has ceased to be employed or normally resident within the territorial limits of the University.

(6) On failure of a member to make the choice under the second proviso to sub-section (3), he shall be deemed to have vacated his office as an elected or nominated member.

(7) When a person ceases to be a member of the Senate, he shall cease to be a member of any of the authorities of the University of which he may happen to be a member by virtue of his membership of the Senate.

19. *Powers and functions of the Senate.*—(1) Subject to the provisions of sub-section (3) of section 7, the Senate shall be the supreme authority of the University and shall have the power to review the action of the Syndicate and the Academic Council save where the Syndicate or the Academic Council has acted in accordance with the powers conferred upon it under this Act, the Statutes, the Ordinances or the Regulations, and shall exercise all the powers of the University not otherwise provided for by this Act or the Statutes:

Provided that if any question arises as to whether the Syndicate or the Academic Council has acted in accordance with such powers as aforesaid or not, the question shall be decided by the Chancellor and his decision shall be final.

(2) Save as otherwise expressly provided in this Act the Senate shall have the following powers, namely:—

(a) to determine what degrees, diplomas and other academic distinctions shall be granted by the University;

(b) to make, amend or repeal Statutes either of its own motion or on the motion of the Syndicate;

(c) to cancel or amend by a majority of the total membership of the Senate and by a majority of not less than two-thirds of the members present and voting, any Ordinance passed by the Syndicate or any Regulation passed by the Academic Council:

Provided that no Regulation shall be cancelled or amended by the Senate without giving the Academic Council an opportunity to state its opinion on the proposed cancellation or amendment;

(d) to institute fellowships, scholarships, studentships, bursaries, medals and prizes and organise exhibitions in accordance with the provisions of this Act and the Statutes, Ordinances and Regulations;

(e) to institute professorships, readerships, lecturerships and such other teaching or research posts as it may deem necessary:

Provided that no professorship, readership, lecturership or other teaching or research post shall be instituted by the Senate without the previous approval of the Government if it involves expenditure in excess of the budgetary provision;

(f) to establish and maintain such institutions as it may from time to time deem necessary;

(g) to prescribe with the previous concurrence of the Government the terms and conditions of service of the employees of the University;

(h) with the previous concurrence of the Government, to regulate the emoluments and prescribe the duties and conditions of service of teachers and non-teaching staff in private colleges;

(i) to review and take such action as it may deem fit on the annual report and the annual accounts of the University which shall be placed before it by the Syndicate and to consider and pass the budget according to the provisions of the Statutes;

(j) to cancel any degree, diploma, title or any other distinction granted to any person in accordance with the provisions of the Statutes;

(k) to appoint committees and to delegate to them such functions of the Senate as it may deem fit;

(l) to make Statutes regulating the method of election to the authorities of the University, the procedure at the meetings of the Senate, the Syndicate and other authorities of the University and the quorum of members required for the transaction of business by the authorities of the University other than the Senate;

(m) to recommend to the Government the recognition of any local area within the University area as a University centre;

(n) to co-operate with other Universities and other authorities in such manner and for such purposes as it may determine;

(o) to exercise such other powers and perform such other functions as may be assigned to it by this Act and the Statutes.

20. *Meetings of the Senate.*—(1) The Senate shall meet at least once in four months on dates to be fixed by the Vice-Chancellor and one of such meetings shall be called the annual meeting.

(2) One-fifth of the total number of members of the Senate shall be the quorum for a meeting of the Senate:

Provided that such quorum shall not be required for a Convocation of the University or a meeting of the Senate held for the purpose of conferring degrees, titles, diplomas or other distinctions.

(3) The Vice-Chancellor may, whenever he thinks fit and shall, within thirty days of the receipt of a requisition in writing

signed by not less than one-fourth of the total number of members of the Senate, convene a special meeting of the Senate.

(4) When a special meeting is convened on requisition, no subject other than that shown in the requisition shall be considered at the meeting.

21. *The Syndicate.*—The Syndicate shall be the chief executive body of the University and shall consist of the following members namely:—

Ex-officio Members

(a) The Vice-Chancellor.

(b) The Pro-Vice-Chancellor.

(c) The Secretary to Government, Higher Education Department or an officer not below the rank of Joint Secretary nominated by him.

(d) The Director of Collegiate Education.

(e) The Director of Public Instruction.

Other Members

(a) Thirteen members elected by the Senate from among themselves, of whom: (i) two shall be Principals of first grade colleges; (ii) four shall be teachers who are not principals, of whom one shall be a University teacher and one shall be a teacher of a Government college, and (iii) one shall be a member of a Scheduled Caste or a Scheduled Tribe.

(b) One member elected by the Senate from among the members referred to—

(i) in item (16) under the heading "Ex-officio Members";

(ii) in item (12) under the heading "Elected Members"; and

(iii) in item (3) under the heading "Other Members",

in section 17.

22. *Term of office of members of Syndicate.*—(1) Members of the Syndicate, other than *ex-officio* members, shall hold office for a term of four years from the date of their election:

Provided that no person elected in his capacity as a member of a particular body or as the holder of a particular office shall be a member of the Syndicate for a longer period than three months after he has ceased to be such member or holder of such office unless in the meanwhile he again becomes a member of that electorate or the holder of that office:

Provided further that the member referred to in item (b) under the heading "Other Members" in section 21 shall hold office for a period of one year from the date of his election or till he ceases to be a member of the Senate, whichever is earlier:

Provided also that a member other than an *ex-officio* member shall, notwithstanding the expiration of his term, continue to hold office until his successor is elected:

Provided also that no person other than an *ex-officio* member shall be eligible to hold office for more than two terms in succession.

(2) Notwithstanding anything contained in the first proviso to sub-section (1), a member of the Syndicate referred to in sub-item (i) of item (a) under the heading "Other Members" in section 21 or referred to in sub-item (ii) of that item who is a teacher of a private college or a Government College, shall not cease to be such member merely on the ground that—

(a) he has been transferred to an educational institution within the State, situated beyond the territorial limits of the University; or

(b) the college of which he is the principal or in which he is a teacher has been transferred to another University; or

(c) in the case of a teacher, he has been promoted as principal.

23. *Powers of Syndicate.*—Subject to the provisions of this Act and the Statutes, the executive powers of the University including the general superintendence and control over the institutions of the University shall be vested in the Syndicate and subject likewise the Syndicate shall have the following powers, namely:—

(i) to affiliate institutions in accordance with the terms and conditions of such affiliation prescribed in this Act and the Statutes;

(ii) to make Ordinances and to amend or repeal the same;

(iii) to propose Statutes for the consideration of the Senate;

(iv) to hold, control and administer the properties and funds of the University;

(v) to direct the form, custody and use of the common seal of the University;

(vi) to arrange for and direct the inspection of colleges, hostels and other institutions and to constitute a Board of Inspection for that purpose;

(vii) to establish, maintain and manage colleges and institutes of research and other institutions of higher learning as it may from time to time deem necessary;

(viii) to appoint teachers and other employees of the University and prescribe their duties;

(ix) to create administrative, ministerial and other necessary posts:

Provided that no post shall be created by the Syndicate without the prior approval of the Government if creation of such post involves expenditure in excess of the budgetary provision:

Provided further that no administrative or ministerial post of and above the rank of section officer shall be created by the Syndicate without the prior approval of the Government;

(x) to suspend, discharge, dismiss or otherwise take any disciplinary action against teachers and other employees of the University after giving them reasonable opportunity to defend their position;

(xi) with the previous sanction of the Government, to fix and regulate the fee payable by students in colleges affiliated to the University;

(xii) to award fellowships, scholarships, studentships, bursaries, medals and prizes;

(xiii) to maintain, supervise and control the residence and discipline of students;

(xiv) to consider the financial estimates of the University and submit them to the Senate in accordance with the provisions of the Statutes made in this behalf;

(xv) to conduct University examinations and approve and publish the results thereof;

(xvi) to appoint members to the Boards of Studies;

(xvii) to approve panel of examiners and to fix their remuneration;

(xviii) to approve the appointment of teachers in private colleges;

(xix) to delegate any of its powers to the Vice-Chancellor or to a committee appointed from among its members;

(xx) to arrange for and direct the investigation into the affairs of private colleges, to issue instructions for maintaining their efficiency, for ensuring proper conditions of employment of members of their staff and payment of adequate salaries to them and in case of disregard of such instructions, to modify the conditions of affiliation or recognition or take such other steps as it deems proper in that behalf;

(xxi) to withhold or cancel the result of any candidate at any University examination;

(xxii) to accept endowments, bequests, donations and transfers of any movable and immovable properties to the University on its behalf, provided that all such endowments, bequests, donations and transfer shall be reported to the Senate at its next meeting;

(xxiii) to exercise the powers of the University under clause (xxvii) of section 5;

(xxiv) to exercise such other powers and perform such other duties as may be prescribed by this Act, the Statutes, the Ordinances, the rules, the bye-laws and the orders.

24. *The Academic Council.*—(1) The Academic Council shall be the academic body of the University.

(2) The Academic Council shall, subject to the provisions of this Act and the Statutes, control and regulate, and be responsible for the maintenance of standards, of instruction, education and examinations within the University, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

(3) The Academic Council shall consist of the following members, namely:—

(a) the Vice-Chancellor;

(b) the Pro-Vice-Chancellor;

(c) the Director of Public Instruction;

(d) the Director of Technical Education;

(e) the Director of Collegiate Education;

(f) the Director of Research and Studies;

(g) the Director of Physical Education;

(h) the Director of Medical Education;

(i) the Deans of Faculties;

(j) the Chairman and the General Secretary of the University Union;

(k) all the Heads of University Departments of Study and Research who are not Deans of Faculties;

(l) all members of the Syndicate who are not otherwise members of the Academic Council;

(m) five members (other than Deans of Faculties) of whom at least one shall be a Principal of a Government professional college, elected by the principals of professional colleges from among themselves;

(n) seven members (other than Deans of Faculties) of whom at least one shall be a Principal of a Government college, elected by the principals of first grade colleges, other than colleges of oriental languages, from among themselves;

(o) two members (other than Deans of Faculties) elected by the Principals of junior colleges from among themselves;

(p) one Principal of a college of oriental languages, not being a Dean of faculty, nominated by the Chancellor by rotation according to seniority;

(q) one member each of every subject of study (not being a Dean of Faculty or head of a University Department or principal) elected by the teachers of that subject from among themselves;

(r) one headmaster and one teacher of a secondary school in the University area nominated by the Chancellor;

(s) one member representing each faculty, elected by the full-time post-graduate students, of the faculty from among themselves;

(t) seven external experts to be nominated by the Chancellor of whom two shall be experts in commerce, business management or industrial technology.

(4) Members of the Academic Council, other than the members specified in clauses (a) to (h) of sub-section (3), shall

hold office for a term of four years from the date of their appointment or nomination, as the case may be:

Provided that a person who has become a member of the Academic Council in the capacity of a student shall cease to hold office on his ceasing to be a student:

Provided further that a person who has become a member of the academic council in the capacity of a post graduate student shall cease to hold office on his ceasing to be a post graduate student.

25. *Powers and duties of Academic Council.*—Subject to the provisions of this Act and the Statutes, the Academic Council shall have the following powers, duties and functions, namely:—

(i) to advise the Senate and the Syndicate on all academic matters;

(ii) to make Regulations and to amend or repeal the same;

(iii) to prescribe the courses of studies in the institutions maintained by, or affiliated to, the University;

(iv) to prescribe the qualifications of teachers;

(a) in colleges; and

(b) in the institutions maintained by the University;

(v) to prescribe the qualifications for admission of students to the various courses of studies and to the examinations and the conditions under which exemptions may be granted;

(vi) to make provision for the admission of students to the various courses of studies on the basis of merit in order to maintain standards of education;

(vii) to make proposals for the instruction and training in such branches of learning as it may think fit;

(viii) to make proposals for research and advancement and dissemination of knowledge;

(ix) to make proposals for the institution of professorships, readerships, lecturerships and other teaching and research posts required by the University;

(x) to make proposals for the institution of fellowships, travelling fellowships, scholarships, studentships, medals and prizes;

(xi) to make proposals for determining what degrees, diplomas and other academic distinctions shall be granted by the University;

(xii) to decide what examinations of other Universities may be accepted as equivalent to those of the University and to negotiate with other Universities for the recognition of the examinations of the University;

(xiii) to arrange for the co-ordination of studies and teaching in affiliated colleges and recognised institutions;

(xiv) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or the Statutes, Ordinances, Regulations, rules, or bye-laws.

26. *Faculties.*—(1) The University may have such faculties as may be prescribed by the Statutes from time to time.

(2) Each faculty shall, subject to the control of the Academic Council, have charge of the teaching and the courses of study and research in such subjects as may be assigned to such faculty by the Ordinances or Regulations.

(3) Each Faculty shall consist of—

(a) the Chairman of the Boards of Studies comprised in the faculty;

(b) two members elected from each Board of Studies; and

(c) not less than five and not more than ten members nominated by the Syndicate of whom two shall be external experts.

(4) Each faculty shall comprise such departments of teaching as may be prescribed by the Ordinances.

(5) Subject to the provisions of this Act each faculty shall exercise such powers and perform such duties as may be prescribed by the Statutes.

(6) The members of faculties mentioned in sub-section (3) shall hold office for a period of three years from the date of their nomination or election, as the case may be.

27. *Deans of faculties.*—(1) There shall be a Dean of each faculty, who shall be nominated by the Chancellor in consultation with the Vice-Chancellor by rotation from among the Heads of University Departments or Professors.

(2) The Dean of each faculty shall be responsible for the due observance of the Statutes, Ordinances, Regulations and Bye-laws relating to that faculty.

(3) The Dean of a faculty shall hold office for a term of two years and shall be eligible for renomination.

28. *Boards of Studies.*—(1) There shall be a Board of Studies attached to each Department of Study in the University:

Provided however that post-graduate studies in each department may have separate Board of Studies.

(2) The constitution and powers of the Boards of Studies shall be prescribed by the Statutes.

(3) Members of the Boards of Studies shall hold office for a period of three years from the date of their entering upon office.

29. *Students' Council.*—(1) There shall be a Students' Council in the University.

(2) The Students' Council shall consist of the following members, namely:—

Ex officio Members

(a) The Vice-Chancellor who shall be the Chairman of the Council.

(b) The Chairman of the University Union.

(c) The General Secretary of the University Union.

(d) The Director, National Cadet Corps.

(e) The Officer-in-charge of the National Service Scheme in the University.

(f) The Director of Physical Education.

(g) The Director of Youth Affairs who shall be the Vice-Chairman of the Council.

Elected Members

(a) Fifteen members, not being members of the Senate or the Academic Council, elected by the members of the General Council of the University Union from among themselves, of whom five shall be women and two shall be members of a Scheduled Caste or a Scheduled Tribe.

(b) Three members elected from among the full-time students of the departments of the University in such manner as may be prescribed.

(c) Two members, other than students, elected by the members of the Senate from among themselves.

(d) One member elected by the members of the Syndicate from among themselves.

(e) One member elected by the members of the Academic Council from among themselves.

Other Members

Five students who have distinguished themselves in academic field, sports or fine arts, nominated by the Vice-Chancellor after giving due consideration to the representation of special interests.

(3) A member nominated by the Vice-Chancellor in consultation with the Chairman of the University Union, from among the elected student members of the Council shall be the Secretary to the Council.

(4) The members of the Students' Council other than *ex-officio* members shall hold office for a term of one year from the date of their election or nomination, as the case may be.

30. *Powers and duties of Students' Council.*—(1) Subject to the provisions of this Act and the Statutes, the Students' Council shall have the following powers, duties and functions, namely:—

(a) to make recommendations to the Syndicate and to the Academic Council in matters affecting the academic work of the students, such as the structure of courses and pattern of instruction, the corporate life of the University in so far as it concerns the students, and the co-curricular and extra-curricular activities in the University;

(b) to make suggestions to the Syndicate and the Academic Council in respect of all rules relating to discipline or welfare of the students, sports, working of literary and other societies, management of hostels, student homes and non-resident student centres, extension work, social work, students' health, National Service Scheme and National Cadet Corps and such other matters as may be specified in the Statutes;

(c) to communicate its views, observations and recommendations to any authority of the University in respect of any matter which concerns the students:

Provided that if any question arises as to whether a matter does or does not concern the students, the question shall be decided by the Chairman of the Students' Council and his decision shall be final;

(d) to take such steps as are necessary for the general welfare of students;

(e) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or the Statutes, Ordinances or Regulations.

(2) The Vice-Chancellor shall cause to be laid before the Senate and the Students' Council in such manner as may be prescribed by the Statutes, periodical reports detailing the recommendations and suggestions made by the Students' Council, the action taken thereon by the authorities to which such recommendations and suggestions were made, and if no action was taken by the authorities to which such recommendations and suggestions were made, the reason thereof.

31. *Finance Committee.*—(1) There shall be a Finance Committee to give advice to the University on any question affecting its finances.

(2) The Finance Committee shall consist of the following members, namely:—

(a) the Vice-Chancellor, who shall be the Chairman;

(b) the Pro-Vice-Chancellor, if any;

(c) one member elected by the members of the Senate from among themselves;

(d) three members elected by the members of the Syndicate of whom (i) two shall be Deans of Faculties; and (ii) one shall be from among the members of the Syndicate elected from the Senate.

(e) one member elected by the members of the Academic Council from among themselves;

(f) the Finance Secretary to Government or an officer not below the rank of Joint Secretary nominated by him;

(g) the Secretary to Government, Higher Education Department or an officer not below the rank of Joint Secretary nominated by him.

(3) The Finance Officer shall be the Secretary of the Finance Committee.

(4) The powers and functions of the Finance Committee and its procedure in financial matters, including the delegation of its powers, shall be prescribed by the Statutes.

32. *Planning Board.*—(1) There shall be a Planning Board which shall be the principal planning body of the University to advise the Syndicate and the academic council on any matter which the board considers necessary for the fulfilment of the objectives of the University.

(2) The Planning Board shall consist of the following members, namely:—

(a) the Vice-Chancellor who shall be the Chairman;

(b) three heads of University departments to be nominated by the Vice-Chancellor;

(c) One expert to be nominated by the Chancellor;

(d) two members to be nominated by the University Grants Commission;

(e) the Secretary to Government, Higher Education Department or an Officer not below the rank of Joint Secretary to Government nominated by him;

(f) the member, State Planning Board in charge of Education;

(g) the Registrar of the University;

(h) the Finance Officer of the University who shall be the Secretary of the Board.

(3) The members of the Planning Board mentioned in clauses (b) and (c) of sub-section (2) shall hold office for a period of four years from the date of their nomination.

(4) The powers and functions of the Planning Board shall be prescribed by the Statutes.

33. *Other authorities of University.*—The constitution, powers and duties of such other authorities as may be declared by the Statutes to be the authorities of the University shall be prescribed by the Statutes.

34. *Disqualifications for membership.*—(1) No person shall be qualified for election or nomination or appointment as a member of any of the authorities of the University or for continuing as such member, if he—

(a) is below twenty-five years of age; or

(b) is of unsound mind or a deaf-mute; or

(c) is an undischarged insolvent; or

(d) has been convicted by a court of law of an offence involving moral delinquency; or

(e) has been debarred by any University from appearing in examinations, for malpractices in connection with any examination:

Provided that clause (a) shall not apply to a person elected or nominated in the capacity of a student to any of the said authorities:

Provided further that the disqualification of a person under clause (e) shall cease on the expiry of the period for which he has been debarred.

(2) If any question arises as to whether any person is disqualified under sub-section (1), the question shall be referred to the Chancellor and his decision thereon shall be final.

CHAPTER V

STATUTES, ORDINANCES, REGULATIONS, RULES AND BYE-LAWS

35. *The Statutes.*—Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the powers and duties of the officers of the University, not specifically provided for in this Act;

(b) the constitution, powers and duties of the authorities of the University, not specifically provided for in this Act;

(c) the procedure for election of members of the Senate, the Syndicate, the Academic Council and other authorities of the University and all such other matters relating to these bodies, as may be necessary or desirable to provide;

(d) the award of degrees, diplomas, titles, certificates, and other academic distinctions by the University;

(e) the withdrawal or cancellation of degrees, diplomas titles, certificates and other academic distinctions;

(f) the maintenance of a register of registered graduates;

(g) the holding of convocations to confer degrees;

(h) the conditions and procedure for affiliation of colleges;

(i) the conferment of honorary degrees;

(j) the maintenance of the accounts and the preparation and passing of the annual budget of the University;

(k) all other matters which by this Act are to be, or may be, prescribed by Statutes.

36. *Procedure for making Statutes.*—(1) The Senate may of its own motion take into consideration the draft of a Statute:

Provided that, in any such case, before a Statute is passed, the Senate shall obtain and consider the opinion of the Syndicate.

(2) The Syndicate may propose to the Senate the draft of any Statute for consideration and such draft shall be considered by the Senate at its next meeting.

(3) The Senate may approve the draft of a Statute proposed by the Syndicate and pass the Statute or may reject it or return it to the Syndicate for reconsideration, either in whole or in part, together with amendments which the Senate may suggest.

(4) After any draft returned by the Senate under sub-section (3) has been further considered by the Syndicate, together with any amendment suggested by the Senate, it shall be again presented to the Senate with the report of the Syndicate thereon, and the Senate may then deal with the draft in any manner it thinks fit.

(5) Where any Statute has been passed by the Senate, it shall be submitted to the Chancellor who may refer the Statute back to the Senate for further consideration or assent thereto or withhold his assent:

Provided that a Statute or amendment to a Statute passed by the Senate which involves expenditure from the University Fund shall be submitted to the Government who shall forward the same to the Chancellor with their views thereon.

(6) No Statute passed by the Senate shall be valid or come into force until assented to by the Chancellor.

(7) The Syndicate shall not propose the draft of a Statute or of an amendment to a Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal; and any opinion so expressed shall be in writing and shall be considered by the Senate.

(8) No Statute providing for the conditions for, or procedure relating to, the affiliation of private colleges shall be passed by the Senate without the previous approval of the Government.

37. *Ordinances.*—Subject to the provisions of this Act and the Statutes, the Syndicate shall have power to make Ordinances providing for all or any of the following matters, namely:—

(a) the levy of fees in colleges and other institutions, by the University;

(b) the residence and discipline of students;

(c) the workload and pattern of teaching staff in colleges;

(d) the fixation of the scales of pay of various posts in the University and the terms and conditions of service of officers of the University:

Provided that no special pay or allowance or extra remuneration of any description whatsoever including *ex-gratia* payment or other benefits having financial implication shall be granted to any officer, teacher or other employee of the University without the prior approval of the Government:

Provided further that no such prior approval of the Government shall be necessary for incurring any such expenditure of a non recurring nature subject to a maximum of ten thousand rupees in the aggregate in a financial year;

(e) all other matters which by this Act or the Statutes are to be, or may be, provided for by the Ordinances.

38. *Procedure for making Ordinances.*—(1) All Ordinances made under this Act shall have effect from such date as the Syndicate may direct, but every Ordinance so made and the repeal of any Ordinance shall be laid before the Senate during the next succeeding meeting.

(2) If any Ordinance or repeal of an Ordinance is not laid before the Senate as required by sub-section (1), the Ordinance shall lapse or, as the case may be, the Ordinance repealed shall revive, after the next succeeding meeting of the Senate.

(3) Subject to the provisions of sub-sections (1) and (2), the procedure to be followed in making, amending or repealing Ordinances shall be prescribed by the Statutes.

(4) Every Ordinance and amendment to an Ordinance including repeal of an Ordinance which involves expenditure shall be

submitted to the Government who shall forward the same to the Chancellor with their views.

(5) No Ordinance or amendment to any Ordinance including repeal of an Ordinance which involves expenditure shall be valid or come into force unless assented to by the Chancellor.

39. *Regulations.*—Subject to the provisions of this Act, Statutes and the Ordinances, the Academic Council may make Regulations providing for all or any of the following matters, namely:—

(a) the courses of studies and the conduct of examinations;

(b) the admission of students to the various courses of study and to the examinations;

(c) the qualifications of teachers;

(d) the appointment and prescription of duties of the Boards of Studies and Examiners;

(e) recognition of examinations, degrees and diplomas of other Universities as equivalent to the examinations, degrees and diplomas of the University; and

(f) all other matters which under the provisions of this Act, the Statutes and the Ordinances are to be, or may be, prescribed by Regulations..

40. *Procedure for making Regulations.*—(1) All Regulations made under this Act, shall have effect from such date as the Academic Council may direct, but every Regulation so made shall be laid before the Senate during its next succeeding meeting.

(2) If any Regulation or repeal of a Regulation is not laid before the Senate as required by sub-section (1) the Regulation shall lapse or as the case may be, the Regulation repealed shall revive, after the next succeeding meeting of the Senate.

(3) Subject to the provisions of sub-sections (1) and (2) the procedure to be followed in making, amending or repealing Regulations shall be prescribed by the Statutes.

41. *Rules, bye-laws and orders.*—(1) The Syndicate shall have power to make rules, bye-laws and orders not inconsistent with the provisions of this Act, the Statutes, the Ordinances and the Regulations, for the guidance and working of Boards and Committees and other bodies constituted under the provisions of this

Act or the Statutes or the Ordinances or the Regulations and for regulating the procedure and conduct of business at meeting of any authority of the University other than the Senate.

(2) All such rules, bye-laws and orders shall have effect from such date as the Syndicate may direct; but every such rule, bye-law or order shall be submitted to the Senate during its next succeeding meeting.

(3) The Senate shall have power to cancel or modify any such rule, bye-law or order.

42. *Publication in the Gazette.*—All Statutes, Ordinances and Regulations made under this Act shall be published in the Gazette.

CHAPTER VI

ELECTION TO THE SENATE, THE SYNDICATE AND THE OTHER BODIES OF THE UNIVERSITY, FILLING UP OF VACANCIES AND RESIGNATION, REMOVAL ETC., OF MEMBERS OF AUTHORITIES AND BODIES

43. *Election of members to the Senate, Syndicate and other bodies of the University.*—The election of members to the Senate, the Syndicate and other bodies of the University shall be held in accordance with the system of proportional representation by means of the single transferable vote and in accordance with the procedure prescribed by the Statutes, and the voting at such election shall be by secret ballot.

44. *Filling up of vacancies.*—(1) All vacancies among the members (other than *ex officio* members) of any authority or body of the University by reason of death, resignation or otherwise shall be filled within a period not exceeding six months, by the person or authority who or which appointed, elected or nominated the member whose place has become vacant.

(2) Any person appointed, elected or nominated under sub-section (1) shall hold office as member so long only as the member in whose place he is appointed, elected or nominated, as the case may be, would have been entitled to hold office if the vacancy had not occurred.

45. *Resignation or removal of members of any authority or body.*—(1) Any member of any authority or body of the University may resign his office by letter addressed to the Registrar and the resignation shall take effect on the date of receipt of the letter by the Registrar.

(2) The Senate may, on the recommendation of not less than two thirds of the number of members of the Syndicate, remove the name of any person convicted by a court of law of any offence involving moral delinquency or punished by the University for malpractice connected with any University examination from the register of registered graduates or remove any such person from membership of any authority or body of the University and for the same reason may withdraw any degree or diploma conferred on or granted by the University.

(3) The Senate may also remove any person from the membership of any authority or body of the University if he becomes of unsound mind or a deaf-mute or has applied to be adjudicated or has been adjudicated an insolvent.

(4) If an elected member of any authority or body of the University fails to attend three consecutive meetings of that authority or body, he shall cease to be a member of such authority or body and thereupon the Registrar shall intimate him that he has ceased to be such member:

Provided that such authority or body may, if satisfied that there was sufficient cause for the failure of the member to attend the meetings, restore him to its membership.

CHAPTER VII

FINANCE

46. *University Fund.*—(1) All grants and loans received from the State Government, the Government of India, the University Grants Commission and from any other source, all revenues of the University, all fees received, all incomes such as rent and profits derived from properties and funds vested in the University, all endowments and donations received from any source whatsoever, all other miscellaneous receipts of the University and all deposits, remittances and service funds, received in connection with the affairs of the University shall form one consolidated fund styled "The

Gandhiji University Fund" and shall be employed for the purposes, and in the manner laid down in this Act and in the Statutes, Ordinances, rules, bye-laws and orders made thereunder:

Provided that separate accounts may be maintained for specific purposes.

(2) All moneys in the Gandhiji University Fund shall be lodged in the Government Treasury or with the approval of the Government in the State Bank of India or its subsidiaries upto such limits as may be fixed by the Government.

(3) The University may invest such part of the moneys in the Gandhiji University Fund, as it may deem fit, in Government securities or securities guaranteed by the Government of India.

(4) The custody of the Gandhiji University Fund, the payment of moneys therein, the withdrawal of moneys therefrom and all other ancillary matters shall be regulated by the Statutes, Ordinances, rules and bye-laws made in that behalf.

47. *Grants from Government.*—(1) The University shall receive as grants for its maintenance such sums, subject to such conditions as may be fixed by the Government, from time to time.

(2) The Government may pay to the University such other grants, subject to such conditions as they think fit, for specific purposes.

48. *Annual estimates of income and expenditure.*—(1) The Syndicate shall prepare the financial estimates of the income and expenditure of the University for the next ensuing year before such date as may be prescribed by the Statutes and forward the same together with a memorandum conveying explanatory notes thereon to the Senate for consideration.

(2) The Senate shall consider the financial estimates at its annual meeting and shall approve it, either without alterations or with such alterations as it may think fit.

49. *Funds earmarked for a purpose not to be diverted without prior approval of Government.*—The University shall not,—

(a) without the prior approval of the Government,—

(i) divert funds earmarked for a purpose for any other purpose; or

(ii) implement any scheme which involves any matching contribution from the State Government; or

(b) implement any scheme which imposes a recurring liability on the Government, after the assistance from the sponsoring authority ceases.

50. *Annual accounts.*—(1) The annual accounts of the University shall be prepared under the directions of the Syndicate and shall be submitted to the Government for audit.

(2) The annual accounts together with the audit report thereon shall be published by the Syndicate and copies of such accounts and audit report shall be placed before the Senate and submitted to the Government.

(3) The annual accounts shall be considered by the Senate at its annual meeting, and the Senate may pass resolutions with reference thereto and communicate the same to the Syndicate which shall take action in accordance therewith.

51. *Annual report.*—(1) The annual report of the University shall be prepared under the direction of the Syndicate and shall be presented to the Senate for its review on or before such date as may be prescribed by the Statutes.

(2) The Senate may pass resolutions on the annual report and communicate the resolutions to the Syndicate.

(3) The Syndicate shall inform the Senate of the action taken by it on the resolutions passed by the Senate under sub-section (2) and shall submit a copy of the annual report together with a copy of the resolutions, if any, of the Senate under sub-section (2) to the Government.

(4) The Government shall, as soon as the annual accounts and annual report are received, cause the same to be laid on the Table of the State Legislative Assembly.

52. *Audit of accounts of the University.*—(1) The Government shall appoint auditors of the accounts of the University and the institutions under the management of the University.

(2) The auditors shall maintain a continuous audit of the accounts of the University and may, after giving due intimation, conduct local audit of any institution under the management of the University.

(3) The University shall bear the cost of the audit as fixed by the Government.

(4) After completing the audit for a year or for any shorter period or for any transaction or series of transactions, the auditors shall send a report to the University and a duplicate copy thereof to the Government.

(5) The auditors shall specify in the report under sub-section (4) all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property due to the University or of any loss or waste of money or other property thereof caused by neglect or misconduct of the officers and authorities of the University.

(6) The auditors shall also report on any other matter relating to the accounts of the University as may be required by the Government.

(7) The University shall forthwith remedy any defect or irregularity pointed out by the Auditors and report the action taken to the Government.

(8) On consideration of a report of the auditors under this section the Government may, if they consider it necessary so to do, direct the University to comply with the provisions of sub-section (7) within such period as may be specified in the direction and the University shall comply with such direction.

CHAPTER VIII

PRIVATE COLLEGES AND AFFILIATION OF COLLEGES

53. *Definitions.*—In this Chapter—

(a) "corporate management" means an educational agency which manages more than one private college;

(b) "unitary management" means an educational agency which manages a private college.

54. *Governing body for private college under unitary management.*—(1) A unitary management shall constitute in accordance with the provisions of the Statutes a governing body consisting of the following members, namely:—

(a) the manager of the private college;

(b) the principal of the private college;

(c) a person nominated by the University in accordance with the provisions in that behalf contained in the Statutes;

(d) a person nominated by the Government;

(e) a person elected in accordance with such procedure as may be prescribed by the Statutes, by the permanent teachers of the private college from among themselves;

(f) the Chairman of the College Union;

(g) a person elected in accordance with such procedure as may be prescribed by the Statutes, by the permanent members of the non-teaching staff of the private college from among themselves; and

(h) not more than six persons nominated by the unitary management.

(2) The manager of the private college shall be the Chairman of the governing body.

(3) It shall be the duty of the governing body to advise the unitary management in all matters relating to the administration of the private college, in accordance with the provisions of this Act and the Statutes, Ordinances, Regulations, rules, bye-laws and orders made thereunder.

(4) The decisions of the governing body shall be taken at meetings on the basis of simple majority of the members present and voting.

55. *Managing council for private colleges under corporate management.*—(1) A corporate management shall constitute a managing council for all the private colleges under its management, consisting of the following members, namely:—

(a) the manager of the private colleges;

(b) one principal by rotation in such manner as may be prescribed by the Statutes;

(c) a person nominated by the University in accordance with provisions in that behalf contained in the Statutes;

(d) a person nominated by the Government;

(e) two persons elected in accordance with such procedure as may be prescribed by the Statutes, by the permanent teachers of all the private colleges, from among themselves;

(f) a person elected by the Chairmen of the College Unions of all the private colleges from among themselves;

(g) one person elected in accordance with such procedure as may be prescribed by the Statutes, by the permanent members of the non-teaching staff of all the private colleges from among themselves; and

(h) not more than fifteen persons nominated by the corporate management.

(2) The manager of the private colleges shall be chairman of the managing council.

(3) It shall be the duty of the managing council to advise the corporate management in all matters relating to the adminis-tration of the private colleges, in accordance with the provisions of this Act and the Statutes, Ordinances, Regulations, rules, bye-laws and orders made thereunder.

(4) The decisions of the managing council shall be taken at meetings on the basis of simple majority of the members' present and voting.

56. *Manager.*—(1) A unitary management or corporate management shall appoint a manager for the private college or for all the private colleges, as the case may be, under its management within the University area.

(2) The appointment or removal of the manager shall be intimated to the University by the unitary management or the corporate management, as the case may be.

(3) It shall be the duty of the manager to give effect to the decisions of the unitary management or the corporate management, as the case may be.

(4) The manager shall exercise such powers and discharge such duties as may be delegated to him by the unitary management or the corporate management, as the case may be.

(5) The manager shall furnish to the Director of Collegiate Education audited accounts of the grants given by the Government to the private college or all the private colleges, as the case may be, of which he is the manager, within such time as may be specified by the Director of Collegiate Education in that behalf.

(6) Suits by or against a private college shall be instituted by or against the manager thereof.

(7) If the manager of a private college is guilty of mis-management, malpractice, corruption or maladministration, gross negligence of duty or disobedience of instructions issued by the

Government or the University or is convicted for an offence involving moral turpitude, the Vice-Chancellor may, after giving the manager a reasonable opportunity to show cause against the action proposed to be taken against him and after due enquiry, declare him unfit to hold the office of manager and require the unitary management or the corporate management, as the case may be, to appoint a suitable person as manager.

(8) Failure on the part of the manager to furnish accounts to the Director of Collegiate Education as required by sub-section (5) within the specified date or within such further time as may be allowed by the Director of Collegiate Education shall be sufficient cause for taking steps for the withdrawal of the grant to the private college or private colleges, as the case may be.

(9) Failure on the part of the manager or the management to obey the instructions issued by the University or the Government in regard to matters relating to the administration of the private college or the continuance in office of a person declared unfit under sub-section (7) shall be deemed to be sufficient cause for the withdrawal of the aid, grant or affiliation of the private college by the University or the Government, as the case may be.

57. *Acts or proceedings of governing body or managing council not to be invalidated.*—No act or proceeding of a governing body or managing council shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the governing body or managing council not opposed to the fundamental principles of law; or

(b) any defect in the appointment of a person acting as a member of the governing body or managing council; or

(c) any irregularity in the procedure of the governing body or managing council not affecting the merits of the case.

58. *Affiliation of colleges.*—(1) An application for affiliation to the University of any college or for affiliation in new courses in any affiliated college shall be sent by the educational agency to the Registrar within such time and in such manner as may be prescribed by the Statutes.

(2) The terms and conditions of affiliation of a college or of affiliation in new courses in an affiliated college and the procedure to be followed by the Syndicate in granting such affiliation, including the period within which the Syndicate shall consider an application under sub-section (1), shall be prescribed by the Statutes:

Provided that the Chancellor may, by notification in the Gazette, for reasons to be specified in the notification, extend the period within which the Syndicate shall consider any application under sub-section (1), whether such period has already expired or not, by such further period, not exceeding one year, as may be specified in such notification.

(3) Without prejudice to the generality of the provisions of sub-section (2), such Statutes may provide for the pattern of staff, scales of pay and terms and conditions of service of members of the staff and admission and selection of students for courses and examinations.

59. *Appointment of teachers in private colleges.*—(1) Appointments to the lowest grade of teacher in each department of a private college shall be made by the educational agency by direct recruitment on the basis of merit.

(2) Appointments of principals shall be made by the educational agency by promotion from among the teachers of the college or of all the colleges, as the case may be, or by direct recruitment.

(3) Where the appointment of principal is made by promotion, the educational agency shall make the appointment on the basis of seniority-cum-fitness.

(4) Appointments to the posts, other than those referred to in sub-sections (1) and (2), shall be made by the educational agency by promotion from among the teachers of the college or of all the colleges, as the case may be, on the basis of seniority-cum-fitness, or, if none among them is fit for promotion, by direct recruitment.

(5) For making appointment under this section by direct recruitment, the post shall be advertised in such manner as may be prescribed by the Statutes.

(6) Notwithstanding anything contained in sub-sections (1) and (4), a teacher discharged from a private college on or after the 14th day of March, 1974, due to abolition of a course of study in that college or for any other reason except disciplinary action against him shall be given preference in the matter of future appointments in the private college or, as the case may be, any of the private colleges under the management of the educational agency within the University area.

(7) The educational agency shall not abolish a course of study in a private college without the prior approval of the University.

(8) Every appointment under this section shall be made by a written order of the manager in such form as may be prescribed by the Statutes, communicated to the person to be appointed, with copy to the University.

(9) Every appointment under this section shall be reported to the University for approval.

(10) Any person aggrieved by any appointment under this section may appeal to the Appellate Tribunal.

60. *Qualifications of teachers.*—(1) Teachers of colleges shall possess such qualifications as may be prescribed by the Regulations.

(2) Notwithstanding anything contained in any law or in any judgement, decree or order of any court or other authority, any decision or order exempting any teacher from possessing the prescribed qualifications or approving the appointment of any teacher who did not possess the prescribed qualifications or allowing any teacher who did not possess the prescribed qualifications to continue in service, made by any authority or officer of the University of Kerala under the Kerala University Act, 1974 (17 of 1974), before the commencement of this Act shall be deemed to have been made by the authority competent to make such decision or order under this Act as if this Act had been in force at the time when such decision or order was made, and accordingly all such decisions and orders shall be, and shall be deemed always to have been, valid and in accordance with law.

61. *Probation.*—(1) Teachers of private colleges shall be on probation for a period of one year within a period of two years:

Provided that in exceptional cases, the period of probation may be extended by a period not exceeding one year, subject to the prior approval of the Syndicate.

Explanation.—Probation undergone by a teacher before the commencement of this Act shall be deemed to be probation for the purposes of this sub-section, provided such probation is within a period of two years immediately before such commencement.

(2) Notwithstanding anything contained in any contract or other document, any teacher working in a substantive vacancy at or after the commencement of this Act shall be deemed to be on probation for the purposes of sub-section (1).

(3) The educational agency may, at any time before the prescribed period of probation, terminate the probation of the

probationer for want of vacancy and discharge him from service if he was appointed by direct recruitment or revert him to his original appointment if the appointment to the new post was by transfer or promotion.

(4) Any probationer discharged or reverted under sub-section (3) shall be given preference in the matter of future appointments to the same post.

(5) On satisfactory completion of probation, the educational agency, shall confirm the teacher in the post and if the vacancy is not a substantive vacancy, the teacher shall be allowed to continue in the post for the duration of the vacancy.

(6) If, on the expiry of the prescribed period of probation, the educational agency decides that the teacher is not suitable for continuance in the post in which he is appointed, it shall discharge him from service or revert him to his original appointment, as the case may be, after giving him a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(7) Where the post held by the probationer is substantively vacant and before the expiry of one month from the prescribed period of probation he is not confirmed under sub-section (5) or is not discharged or reverted under sub-section (6), he shall be deemed to have been confirmed in that post.

(8) A probationer who is discharged or reverted under sub-section (6) or who is discharged or reverted before the prescribed period of probation otherwise than on the ground of want of vacancy shall be entitled to appeal against the order of discharge or reversion to the Appellate Tribunal and the provisions of section 63 shall, *mutatis mutandis* apply to such appeals.

62. *Conditions of service of teachers of Private Colleges.*—Notwithstanding anything contained in any law or in any contract or other document, the conditions of service of teachers of private colleges, whether appointed before or after the commencement of this Act including conditions relating to pay, pension, provident fund, gratuity, insurance and age of retirement, shall be such as may be prescribed by the Statutes.

63. *Disciplinary powers of Educational Agency over teachers of Private Colleges.*—(1) The Educational Agency may at any time place a teacher of a Private College under suspension when any

disciplinary proceedings is proposed to be taken against him or when such disciplinary proceedings are pending.

(2) A teacher of a Private College who is detained in custody whether on a criminal charge or otherwise for a period exceeding fourty-eight hours shall be deemed to have been suspended with effect from the date of detention by an order of the Educational Agency and shall remain under suspension until further orders.

(3) When a teacher of a private college is suspended for a period exceeding fifteen days, the matter together with the reasons for the suspension, shall be reported to the Vice-Chancellor.

(4) Any disciplinary proceedings against a teacher of a private college by the educational agency shall be completed within a period of three months or within such further period as may be allowed by the Vice-Chancellor.

(5) No disciplinary action shall be taken against a teacher without giving him a reasonable opportunity of showing cause against the action proposed to be taken against him.

(6) Any teacher aggrieved by an order imposing on him any of the following penalties, namely:—

(a) withholding of increment;

(b) recovery from pay of any pecuniary loss caused to the institution or the monetary value equivalent to the amount of increment ordered to be withheld;

(c) reduction to a lower rank in the seniority list or to a lower grade or post; and

(d) dismissal from service,

may, within sixty days from the date on which a copy of such order is served on him, appeal to the Appellate Tribunal on any one or more of the following grounds, namely:—

(i) that there is want of good faith in passing the order;

(ii) that the order is intended to victimise the appellant;

(iii) that in passing the order, the educational agency has been guilty of a basic error or violation of the principles of natural justice;

(iv) that the order is not based on any material or is perverse:

Provided that the Appellate Tribunal may admit an appeal presented after the expiration of the said period of sixty days if it is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(7) On receipt of an appeal under sub-section (6), the Appellate Tribunal may, after giving the parties an opportunity of being heard, and after such further inquiry as may be necessary pass such order thereon as it may deem fit, including an order of reinstatement of the teacher concerned.

(8) Any order passed by the Appellate Tribunal under sub-section (7) may be executed through the Subordinate Judges Court having jurisdiction over the area in which the private college is situate as if it were a decree passed by that court.

(9) Any person who objects to an order passed by the Appellate Tribunal under sub-section (7) may, within sixty days from the date on which a copy of such order is served on him, prefer a petition accompanied by court fee stamps of the value of ten rupees to the High Court on the ground that the Appellate Tribunal has either decided erroneously or failed to decide, any question of law.

(10) The provisions of section 5 of the Limitation Act, 1963 (Central Act 36 of 1963), shall be applicable to any proceedings under sub-section (9).

(11) The High Court shall, after giving the parties an opportunity of being heard, pass such order on the petition, as it deems fit.

(12) Where the High Court passes any order under sub-section (11), the Appellate Tribunal shall amend the order passed by it in conformity with the order of the High Court.

64. *Disciplinary powers of Government over teachers of Private Colleges.*—(1) Notwithstanding anything contained in this Act or in the Statutes, Ordinances or Regulations and subject to such rules as may be made by Government in this behalf, the Government or such officer not below the rank of Deputy Director of Collegiate Education, as may be authorised by the Government in this behalf, shall have power to take disciplinary proceedings against a teacher of a private college and to impose upon him all or any of the penalties specified by or under this Act:

Provided that before exercising the powers under this sub-section, the Government or the authorised Officer, as the case may be, shall intimate the manager regarding the circumstances requiring disciplinary action against the teacher concerned and give the manager a reasonable opportunity of taking disciplinary action and the Government or the authorised Officer, as the case may be, shall take disciplinary action against the teacher only if the manager fails to take appropriate disciplinary action.

(2) The Government or the officer authorised under sub-section (1), as the case may be, may suspend a teacher of a private college when any disciplinary proceedings is proposed to be taken against him under that sub-section or when such disciplinary proceedings are pending.

65. *Past disputes relating to service conditions of teachers.*—Notwithstanding anything contained in any law for the time being in force, or in any contract or in any judgment, decree or order of any court or other authority any dispute between the management of a private college and any teacher of that college relating to the conditions of service of such teacher pending at the commencement of this Act shall be decided under and in accordance with the provisions of this Act and the Statutes made thereunder.

66. *Membership of Local Authorities, etc.*—A teacher of a private college shall not be disqualified for continuing as such teacher merely on the ground that he has been elected or nominated as a member of a local authority or of the Legislative Assembly of the State or of Parliament.

67. *Non-teaching staff of Private Colleges.*—(1) The provisions of this Chapter shall, so far as may be, apply to the non-teaching staff of the private colleges.

(2) Subject to the provisions of sub-section (1), the method of appointment, pay and other conditions of service of the non-teaching staff of private colleges shall be such as may be prescribed by the Statutes.

68. *Transfer of teachers to other Universities.*—(1) Where an educational agency has colleges under the jurisdiction of the Gandhiji University and also under the jurisdiction of the Kerala University or the Calicut University, the educational agency shall within three months of the commencement of this Act or within such further period, not exceeding three months, as may be granted by the Government for sufficient reason, prepare a seniority list of the teachers of all such colleges.

(2) After the preparation of the list under sub-section (1), the educational agency shall give a right of option to the teachers as to the University under the jurisdiction of which he opts to remain and the teachers shall be allotted to each University area in accordance with such option:

Provided that where the number of teachers who have opted to work under the jurisdiction of the Gandhiji University or the Kerala University or the Calicut University is more than the number required, allotment shall be made on the basis of seniority.

(3) Any teacher aggrieved by any entry in the list prepared under sub-section (1) or by the allotment under sub-section (2) may appeal to the Government within sixty days from the date of communication of the list or order of allotment to him, and the decision of the Government thereon shall be final.

(4) Where a teacher is allotted to a University area under this section he shall not be transferred to a college affiliated to any other University.

(5) Nothing contained in this section shall apply in respect of principals of private colleges.

69. *Constitution of Appellate Tribunal.*—(1) The Government shall constitute an Appellate Tribunal for the purposes of this Act.

(2) The Appellate Tribunal shall be a judicial officer not below the rank of a District Judge nominated by the Chancellor in consultation with the High Court.

(3) The term of office of the Appellate Tribunal shall be three years from the date of its nomination.

(4) The Appellate Tribunal shall have the power to make regulations consistent with the provisions of this Act with the previous sanction of the Government for regulating its procedure and disposal of its business.

(5) The regulations so made shall be published in the Gazette.

(6) The remuneration and other conditions of service of the Appellate Tribunal shall be such as may be prescribed by rules.

70. *Bar of Jurisdiction of civil courts.*—No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by any authority or person under this Act.

71. *Private colleges to comply with provisions of Chapter within six months.*—All private colleges existing in the University area immediately before the commencement of this Act and affiliated to the University shall, within a period of six months from such commencement, comply with the provisions of this Chapter.

72. *Colleges not complying with provisions of this Act.*—(1) If the Syndicate is satisfied that any private college has not complied with any provision contained in this Act or in the Statutes, Ordinances, Regulations, bye-laws, orders or rules, it may recommend to the Government for withholding or discontinuing aid or grant or it may disaffiliate the college from the University:

Provided that before disaffiliating a college, the educational agency and the governing body or managing council, as the case may be, shall be given an opportunity of being heard.

(2) If, on a recommendation under sub-section (1), the Government are satisfied that any private college has not complied with any of the provisions of this Act or of the Statutes, Ordinances, Regulations, bye-laws, orders or rules, they may, by order, direct that the college shall not be given any aid or grant from the Government:

Provided that before making any such order, the educational agency and the governing body or managing council, as the case may be, shall be given an opportunity of being heard.

73. *Code of Conduct for teachers of affiliated Colleges.*—(1) The Government shall, in consultation with the University and the representatives of the teachers, frame a Code of Conduct to be observed by the teachers of Government and private colleges.

(2) Any teacher of a Government or private college who contravenes any of the provisions of the Code of Conduct shall be liable for disciplinary action which may involve the imposition of a major penalty.

74. *Power of Government to cause inspection of University.*—(1) The Government shall have the right to cause an inspection to be made by such person or persons as they may direct, of the University, its buildings, laboratories, libraries, museums, workshops and equipments and of any institution maintained, recognised or approved

by, or affiliated to, the University, and also of the work conducted by the University, and to cause inquiry to be made in respect of any matter connected with the University.

(2) The Government shall, before taking any action under sub-section (1), give notice to the University of their intention to cause such inspection or inquiry to be made and the University shall be entitled to be represented thereat.

(3) The Government shall communicate to the Syndicate the result of any inspection or inquiry made under sub-section (1) and may, after ascertaining the opinion of the Syndicate thereon, convey their views to the Senate and to the Syndicate.

(4) The Government may, after considering the views of the Senate and the Syndicate on the result of any inspection or inquiry under sub-section (1), advise the University upon the action to be taken in the matter.

(5) The Syndicate shall report to the Government the action, if any, which is proposed to be taken, or has been taken, upon the result of any inspection or inquiry under sub-section (1).

(6) A report under sub-section (5) shall be submitted with the opinion of the Senate thereon and within such time as the Government may direct.

(7) Where the Senate or the Syndicate does not, within a reasonable time, take any action referred to in sub-section (4) to the satisfaction of the Government, the Government may, after considering any explanation furnished, or representation made, by the Senate or the Syndicate in the matter, issue such directions as they may think fit, and the Senate and the Syndicate shall comply with such directions within such time as may be specified in the directions.

(8) The power of the Government to cause inspection under this section shall be in addition to and not in derogation of the power of the Government for inspection by or under any other provision of this Act, Statutes or Ordinances.

75. *Appointment of Commission to inquire into the working of University.*—(1) The Government may at any time and shall, at the expiration of ten years from the commencement of this Act and thereafter at the expiration of every ten years, by order published in the Gazette, constitute a Commission which shall consist of a Chairman and such other members not exceeding five as the Government may appoint, and such order shall define the procedure to be followed by the Commission.

(2) The Commission constituted under sub-section (1) shall inquire into and report on—

(i) the working of the University during the period to which the inquiry relates;

(ii) the financial position of the University including the financial position of its colleges and departments;

(iii) any change to be made in the provisions of this Act or the Statutes, Ordinances, rules and bye-laws made thereunder with a view to bringing about improvements in the affairs of the University; and

(iv) such other matters as may be referred to it by the Government, and make such recommendations to the Government as it thinks fit.

(3) On receipt of the report and the recommendations of the Commission under sub-section (2), the Government shall forthwith refer such report and recommendations to the Senate for consideration and report.

(4) Immediately after the Senate has considered the report and recommendations of the Commission and submitted its report to the Government, the Government shall consider the report of the Senate and pass such orders thereon as they think fit and shall also cause the same to be published in the Gazette.

(5) The Senate shall be responsible for carrying into effect any orders passed by the Government under sub-section (4) within six months.

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76. *Directions by Government.*—(1) The Government may after consultation with the Senate, give to the Senate directions of a general nature on matters which are not academic.

(2) In the exercise of its powers and performance of its functions under this Act, the Senate shall not depart from any direction given by the Government under sub-section (1), except with the previous permission of the Government.

77. *Power of Government to make rules.*—(1) The Government may, by notification in the Gazette, make rules not inconsistent with the provisions of this Act for the purpose of exercising

the powers and discharging the duties conferred or imposed on the Government by this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

78. *Reservation of appointments.*—In making appointments by direct recruitment to posts in any class or category under the University or to posts of non-teaching staff in the University, the University shall *mutatis mutandis* observe the provisions of clauses (a), (b) and (c) of rule 14 and rules 15, 16, 17 and 17A of the Kerala State and Subordinate Service Rules, 1958, as amended from time to time.

79. *Constitution of Selection Committees.*—(1) The Chancellor shall, in consultation with the Syndicate, constitute from time to time, separate selection committees for the purpose of selection of candidates for direct recruitment to the posts of—

(i) Professors.

(ii) Readers, Lecturers and other posts not being posts of non-teaching staff.

(iii) Non-teaching staff.

(2) The selection Committees shall consist of—

(a) in the case of the Selection Committee for selection of Professors,—

(i) the Vice-Chancellor,

(ii) a member of the Syndicate, nominated by the Chancellor,

(iii) two subject experts to be nominated by the Chancellor.

(b) in the case of the Selection Committee for recruitment of Readers, Lecturers and other teaching staff,—

(i) the Vice-Chancellor,

(ii) a member of the Syndicate, nominated by the Chancellor,

(iii) head of the Department,

(iv) one expert to be nominated by the Chancellor.

(c) in the case of the Selection Committee for recruitment of non-teaching staff,—

(i) Vice-Chancellor.

(ii) A member of the Syndicate, nominated by the Chancellor.

(iii) Registrar.

(3) No person shall be directly recruited to the teaching or non-teaching staff of the University except on the recommendation of the concerned Selection Committee constituted under sub-section (1).

(4) The quorum for a meeting of a Selection Committee shall be three.

(5) The procedure to be followed by each Selection Committee for selection of candidates shall be prescribed by the Statutes.

(6) Where the oral test (interview) is proposed to be conducted by the Selection Committee, the Committee shall invite the Head of the Department concerned to be present or to appoint a representative to be present and the Head of Department or his representative so present may take part in the deliberations of the Selection Committee but shall not be entitled to award marks:

Provided that the Selection Committee shall invite, where they consider it necessary, any person or persons with expert knowledge in particular subjects to be present at the interview to assist the Selection Committee but such person or persons shall not be entitled to award marks.

(7) It shall be the duty of the Heads of Departments or their representatives and persons with expert knowledge who are invited to be present at the interview, to be present at the appointed time and co-operate with the Selection Committee in the conduct of the selection.

(8) Any person referred to in sub-section (7) being an employee of the Government or a University in the State who violates the provisions of that sub-section or misbehaves or acts in any manner so as to affect the fair conduct of a selection, shall be deemed to be guilty of misconduct and shall be liable for disciplinary action.

(9) The ranked lists prepared by the Selection Committees shall be published in the notice board of the University and also in the Gazette.

(10) A rank list published under sub-section (9) shall remain in force for a period of two years from the date of such publication and all vacancies arising during the period shall be filled up from the list so published.

(11) Communal rotation shall be followed category-wise treating all the departments as one unit.

(12) The Registrar shall maintain a register containing the list of appointments made indicating the vacancies filled up by open competition and by reservation to Scheduled Castes, Scheduled Tribes and Other Backward Classes, vacancies remaining to be filled up for want of qualified hands from Scheduled Castes, Scheduled Tribes and Other Backward Classes and vacancies carried forward for want of qualified hands under reservation quota for being filled up in future vacancies and such other details as may be specified in the Statutes.

(13) Where the Syndicate proposes to make an appointment otherwise than in accordance with the order of merit arranged by the Selection Committee, it shall record its reasons therefor in writing and submit them to the Chancellor who may approve the proposal or return it to the Syndicate for reconsideration.

(14) After reconsideration in pursuance of sub-section (13), if the Syndicate desires to pursue its original proposal, it shall refer the matter again to the Chancellor for his decision and the decision of the Chancellor thereon shall be final.

(15) The Chancellor shall have the power to give directions to the Vice-Chancellor to cancel appointments made not in accordance with the provisions of this section:

Provided that before giving a direction under this sub-section the Chancellor shall give to the person so appointed a reasonable opportunity to show cause why such direction should not be given and shall consider his explanations and objections, if any.

(16) If at any time it is disclosed that a person has secured appointment to any post under the University by making any false statement before the Selection Committee or in any application submitted by him or by producing any false documents, his appointment shall, without prejudice to any other action that may be taken against him, be cancelled by the Vice-Chancellor:

Provided that before cancelling an appointment under this sub-section, the Vice-Chancellor shall give to the person so appointed, a reasonable opportunity to show cause why the appointment should not be cancelled and shall consider his explanations and objections, if any.

80. *Conditions of Service.*—(1) Save as otherwise provided by or under this Act every salaried officer and teacher of the University shall be appointed by a written order.

(2) The written order referred to in sub-section (1) shall be lodged with the Registrar and a copy thereof shall be furnished to the officer or teacher concerned.

(3) Any dispute between any officer or teacher of the University and the University shall, on the request of the University or the officer or teacher concerned be referred to the Appellate Tribunal for decision, and thereupon, the provisions of sub-sections (7), (8), (9), (10), (11) and (12) of section 63 and the regulations made by the Tribunal under section 69 shall *mutatis mutandis* apply to the decision of such dispute.

81. *Pension, Insurance and Provident Fund.*—With the previous approval of the Government, the University shall make appropriate provisions for the benefit of its officers, teachers and other servants under its control in matters of insurance, pension and provident fund and for such other benefits as it may deem fit in such manner as may be prescribed by the Ordinances.

82. *Proceedings of the University and bodies not to be invalidated by vacancies.*—No act or proceeding of the Senate, the Syndicate, the Academic Council or other body constituted under this Act or the Statutes or the Ordinances shall be deemed to be invalid merely by reason of any vacancy in the body doing or passing it, at the time any such act or proceeding is done or passed.

83. *Proceedings of the Senate, Syndicate and Academic Council.*—The Registrar shall forward to the Government within one month of the date of any meeting of the Senate or the Syndicate or the Academic Council copies of the proceedings of such meetings.

84. *Dispute as to constitution of University Authority or body.*—If any question arises regarding the interpretation of any provision of this Act or of any Statute, Ordinance, Regulation, rule, bye-law or order or as to whether a person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter may be referred to the Chancellor and shall be so referred to him if not less than twenty-five members of the Senate so require, and the Chancellor shall, after taking such advice as he deems necessary, decide the question and such decision shall be final.

85. *Report on affiliated colleges.*—The Vice-Chancellor shall, at the end of every three years from the commencement of this Act submit a report to the Government on the conditions of affiliated colleges.

86. *Protection of acts and orders.*—All acts and orders duly and in good faith done or passed by the University or any of its authorities, bodies or officers shall be final; and no suit shall be instituted against, or damage claimed from, the University or its authorities, bodies or officers for anything done or purporting to be done in pursuance of this Act and the Statutes, Ordinances, Regulations, rules, bye-laws and orders made thereunder.

87. *Institutions affiliated to University.*—(1) All colleges existing in the University area immediately before the commencement of this Act shall stand affiliated to the University.

(2) The Government may, at any time, transfer to the University any institution subject to such terms and conditions as may be agreed upon between the Government and the University as regards its future maintenance and control.

88. *Duty of teachers, etc., in connection with University examinations.*—(1) It shall be the duty of a teacher or a member of the non-teaching staff of an affiliated college or an officer, teacher or other employee of the University to do any work in connection with an examination conducted by the University which he is required by the competent officer or authority of the University to do.

(2) If any teacher or member of the non-teaching staff of an affiliated college or any officer, teacher or other employee of the University refuses, without sufficient cause to the satisfaction of,—

(a) in the case of a teacher or a member of the non-teaching staff of an affiliated college, an officer not below the rank of Deputy Director of Collegiate Education authorised by the Government in this behalf; and

(b) in the case of an officer, teacher or other employee of the University, the Vice-Chancellor,

to do any work in connection with an examination conducted by the University when required to do so by the competent Officer or authority of the University, he shall, without prejudice to any other action that may be taken against him, forfeit his pay and allowances for a period of two months commencing on the date of commencement of the examination.

Explanation.—Failure to comply with the requisition of the competent officer or authority of the University shall be deemed to be refusal for the purposes of this sub-section.

(3) An order of forfeiture under sub-section (2) shall be made,—

(a) in the case of a teacher or a member of the non-teaching staff of an affiliated college, by the officer authorised under clause (a) of the said sub-section; and

(b) in the case of an officer, teacher or other employee of the University, by the Vice-Chancellor.

(4) No order of forfeiture shall be made under sub-section (3) without giving the person who may be affected thereby an opportunity of being heard.

(5) Any person aggrieved by an order referred to in sub-section (4) may, within sixty days from the date on which a copy of such order is served on him, appeal to the Appellate Tribunal, and the Appellate Tribunal may, after giving the parties an opportunity of being heard and after such further inquiry as may be necessary, pass such order thereon as it deems fit.

89. *Punishment for irregularities by teachers at examinations.*—Any teacher of an affiliated college or a teacher of the University who—

(a) connives with, or assists, any candidate at an examination conducted by the University to do any malpractice at such examination; or

(b) delays the valuation and return of answer books of candidates at any such examination which have been given to him for valuation;

shall without prejudice to any other action that may be taken against him be liable for disciplinary action.

90. *Registered Graduates.*—All graduates of the University constituted under this Act and all graduates of any other

University residing in the University area shall be entitled to be registered under the provisions of this Act as graduates of the University constituted under this Act:

Provided that all registered graduates of the Kerala University constituted under the Kerala University Act, 1974, who are employed, or are residing, within the territorial jurisdiction of the Gandhiji University constituted under this Act shall be deemed to be registered graduates of the Gandhiji University constituted under this Act.

91. *Appointment of first Vice-Chancellor.*—Notwithstanding anything to the contrary contained in section 10, the Chancellor shall appoint such person as he thinks fit to be the first Vice-Chancellor of the University for a period not exceeding three years.

92. *Appointment of Registrar, Controller of Examinations and Finance Officer during initial period of two years.*—Notwithstanding anything contained in sections 12, 13 and 14, for a period of two years from the commencement of this Act, the Registrar, the Controller of Examinations and the Finance Officer shall be appointed by the Chancellor for the said period, on a salary to be fixed by him and on such other conditions as he thinks fit:

Provided that the power under this section shall not be exercised by the Chancellor after nomination of the Syndicate under section 94.

93. *Appointment of the first University Staff.*—Notwithstanding anything contained in this Act, the Chancellor shall have power to appoint such officers and servants of the University as may be necessary for ensuring the working of the University.

94. *Nomination of first University authorities.*—Notwithstanding anything contained in this Act, the first of all authorities of the University shall be nominated by the Chancellor for a period of two years from the date of nomination or till the constitution of those authorities in accordance with the provisions of this Act, whichever is earlier.

95. *Colleges and other institutions within the jurisdiction of the University.*—(1) All colleges and other educational institutions within the areas to which the jurisdiction of the University extends, which immediately before the commencement of this Act were recognised by, or were affiliated to, the University of Kerala as institutions providing courses of study for admission to examinations

of that University for degrees, diplomas and other academic distinctions shall be deemed to be institutions recognised by, or affiliated to, the Gandhiji University under this Act and the provisions of this Act shall apply accordingly.

(2) Any student of any college within the area referred to in sub-section (1) and affiliated to the University of Kerala immediately before the commencement of this Act shall be permitted to complete his course under the University of Kerala, and the Gandhiji University shall provide for the instruction of such students in accordance with the course of study in the University of Kerala and shall comply with such directions as may be given to it by the University of Kerala in respect of those students.

96. *Transfer of service of certain employees from the University of Kerala to the Gandhiji University.*—(1) Any person in the employment of the University of Kerala may subject to such conditions and restrictions as may be specified by the Government in this behalf, opt to serve in connection with the affairs of the Gandhiji University.

(2) As soon as may be after the date of the commencement of this Act, the Government may, after consulting the Vice-Chancellors of the University of Kerala and the Gandhiji University direct, by general or special order, that such of the employees of the University of Kerala as are specified in such order shall stand allotted to serve in connection with the affairs of the Gandhiji University with effect from such date as may be specified in such order.

(3) In making an order under sub-section (2), the persons who have opted under sub-section (1) to serve in connection with the affairs of the Gandhiji University shall be given preference.

(4) With effect from the date specified in an order under sub-section (2) the persons specified in such order and allotted to serve in connection with the Gandhiji University shall become employees of the Gandhiji University and shall cease to be employees of the University of Kerala.

(5) Every person who becomes an employee of the Gandhiji University under sub-section (4) shall, hold office under that University by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity, if any, and other matters as he would have held the same on the date specified in the order under sub-section (2), as if this Act had not been passed.

(6) The liability to pay pension and gratuity to the persons referred to in sub-section (2) shall be the liability of the Gandhiji University.

97. *Transfer of accumulation in provident fund and other like funds.*—(1) The sums to the credit of the provident fund accounts of the persons referred to in sub-section (2) of section 96 as on the date specified in the order under that sub-section shall be transferred to the Gandhiji University, and the liability in respect of the said provident fund accounts shall be the liability of the Gandhiji University.

(2) There shall be paid to the Gandhiji University out of the accumulation in the superannuation fund and other like funds, if any, of the University of Kerala such amounts as have been credited to the superannuation fund and other like funds, if any, on behalf of the persons referred to in sub-section (2) of section 96.

(3) The amounts paid under sub-section (2) shall form part of the superannuation fund or other like funds, if any, that may be established by the Gandhiji University for the benefit of its employees.

98. *Apportionment of funds and assets of the University of Kerala.*—A Committee consisting of the Vice-Chancellor of the University of Kerala, the Vice-Chancellor of the Gandhiji University and the Secretary to the Government of Kerala, Finance Department, shall examine the question of transfer of funds and assets, other than those referred to in sub-section (3) of section 99 from the University of Kerala to the Gandhiji University and shall recommend to the Government the action to be taken in the matter, and the decision of the Government on such recommendation shall be final.

99. *Act 17 of 1974 not to apply.*—(1) Subject to the provisions of this section, the Kerala University Act, 1974 (17 of 1974), shall, with effect from the date of the commencement of this Act cease to apply in respect of the areas to which the jurisdiction of the Gandhiji University extends.

(2) Notwithstanding anything contained in sub-section (1), all Statutes and Ordinances made under the Kerala University Act, 1974 (17 of 1974) and in force on the date of the commencement of this Act shall, in so far as they are not inconsistent with the provisions of this Act continue to be in force in respect of the areas referred to in sub-section (1) until they are replaced by the Statutes and Ordinances to be made under this Act.

(3) All property, whether movable or immovable, including lands, buildings, equipments, books and library and all rights of whatever kind owned by or vested in or held in trust immediately before the date of the commencement of this Act by the University of Kerala at the University Study Centres at Palai, Kottayam and Changanacherry as well as all liabilities legally subsisting against the University of Kerala at these centres shall stand transferred to and vest in the Gandhiji University.

(4) Nothing in this section shall be held to prejudice or affect the application of sections 4 and 23 of the Interpretation and General Clauses Act, 1125 (VII of 1125).

100. *First Statutes and Ordinances (1).*—Notwithstanding anything contained in this Act the first Statutes and the first Ordinances of the University shall be made by the Government.

(2) Every first Statute and every first Ordinance made under this section shall be laid as soon as it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the first Statute or the first Ordinance, as the case may be or decides that the first Statute or as the case may be, the first Ordinance should not be made, the first Statute or the first Ordinance as the case may be shall thereupon have effect only in such modified form or be of no effect, as the case may be; so however that no such modification or annulment shall be without prejudice to the validity of anything previously done under the first Statute or the first Ordinance.

101. *Removal of difficulties.*—(1) If any difficulty arises as to the first constitution or reconstitution of any authority of the University or otherwise in giving effect to the provisions of this Act the Government may by order do anything not inconsistent with the provisions of this Act which appears to them necessary for the purpose of removing the difficulty.

(2) Every order issued under sub-section (1) shall be laid, as soon as may be after it is issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the order or decides that the order should not be issued, the order shall thereafter have effect only in such modified form or

be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

102. *Repeal and saving.*—(1) The Gandhiji University Ordinance, 1984 (92 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Act.

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 4309|Leg. C3|85|Law. *Dated, Trivandrum, 17th April, 1985|*
27th Chaithra, 1907.

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1985.

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ORDINANCE No. 13 OF 1985

THE KERALA SICK TEXTILE UNDERTAKINGS (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to provide for the acquisition and transfer of the undertakings of the Prabhuram Mills, Chengannur, the Kottayam Textiles, Kurumulloor, Kottayam and the Malabar Spinning and Weaving Mills, Kallai, Calicut and the right, title and interest of the owners in respect of those undertakings with a view to reorganising and rehabilitating such undertakings and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS the Kerala Sick Textile Undertakings (Acquisition and Transfer of Undertakings) Ordinance, 1984 (71 of 1984), was promulgated by the Governor of Kerala on the 29th day of September, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Sick Textile Undertakings (Acquisition and Transfer of Undertakings) Ordinance, 1984 (99 of 1984), was promulgated by the Governor of Kerala on the 3rd day of December, 1984;

AND WHEREAS a Bill to replace Ordinance 99 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 99 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Sick Textile Undertakings (Acquisition and Transfer of Undertakings) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 5th day of October, 1984.

2. *Definitions.*—(1) In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the 1st day of September, 1983;

(b) "authorised person" means the person or body of persons appointed under section 18AA of the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951), to take over the management of the sick textile undertakings;

(c) "bank" means—

(i) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);

(ii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);

(iii) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);

(iv) any other bank, being a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (Central Act 2 of 1934);

(d) "Commissioner" means a Commissioner of Payments appointed under section 16;

(e) "owner", when used in relation to a sick textile undertaking, means the person or firm who or which was, immediately before the take-over of the management of the undertaking under section 18AA of the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951), the immediate proprietor or lessee or occupier of the sick textile undertaking or any part thereof;

(f) "prescribed" means prescribed by rules made under this Ordinance;

(g) "sick textile undertaking" means a textile undertaking specified in the First Schedule, the management of which has, before the appointed day, been taken over by the Central Government under the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951);

(h) "specified date" means such date as the Government may, for the purpose of any provision of this Ordinance, by notification in the Gazette, specify; and different dates may be specified for different provisions of this Ordinance;

(i) "State Textile Corporation" means the Kerala State Textile Corporation Limited formed and registered under the Companies Act, 1956 (Central Act 1 of 1956);

(j) "textile company" means a company specified in column (3) of the First Schedule as owning the undertaking specified in the corresponding entry in column (2) of that Schedule;

(k) "subsidiary textile corporation" means a company formed by the State Textile Corporation as its subsidiary;

(2) Words and expressions used but not defined in this Ordinance and defined in the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951), shall have the meanings respectively assigned to them in that Act.

(3) Words and expressions used but not defined either in this Ordinance or in the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951), but defined in the Companies Act, 1956 (Central Act 1 of 1956), shall have the meanings respectively assigned to them in the Companies Act, 1956 (Central Act 1 of 1956).

CHAPTER II

ACQUISITION OF THE RIGHTS OF OWNERS OF SICK TEXTILE UNDERTAKINGS

3. *Acquisition of rights of owners in respect of sick textile undertakings.*—(1) On the appointed day, every sick textile

undertaking and the right, title and interest of the owner in relation to every such sick textile undertakings shall, by virtue of this Ordinance, stand transferred to, and shall vest absolutely in, the State Government.

(2) Every sick textile undertaking which stands vested in the State Government by virtue of sub-section (1) shall, immediately after it has so vested, stand transferred to, and vest in, the State Textile Corporation.

4. *General effect of vesting.*—(1) Every sick textile undertaking referred to in section 3 shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the possession, power or control of the authorised person and all books of account, registers and all other documents of whatever nature relating thereto and shall also be deemed to include the liabilities and obligations specified in sub-section (2) of section 5.

(2) All property as aforesaid which have vested in the State Government under sub-section (1) of section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting it, and any attachment, injunction or decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Where any licence or other instrument in relation to a sick textile undertaking had been granted at any time before the appointed day to an owner by the Central Government or a State Government or any other authority, the State Textile Corporation shall, on and from the appointed day, be deemed to be substituted in such licence or other instrument in place of the owner referred to therein as if such licence or other instrument had been granted to it and shall hold such licence or the sick textile undertaking specified in such other instrument for the remainder of the period for which the owner would have held such licence or the sick textile undertaking under such other instrument.

(4) Every mortgagee of any property which has vested under this Ordinance in the State Government and every person holding any charge, lien or other interest in or in relation to any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner, of such mortgage, charge, lien or other interest.

(5) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interest, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in relation to such property, in the First Schedule, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the State Government.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any matter specified in sub-section (2) of section 5 in respect of the sick textile undertaking, instituted or preferred by or against the textile company or the authorised person, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the sick textile undertaking or of anything contained in this Ordinance but the suit, appeal or other proceedings may be continued, prosecuted and enforced by the State Textile Corporation.

5. *Owner to be liable for certain prior liabilities.*—(1) Every liability, other than the liability specified in sub-section (2), of the owner of a sick textile undertaking, in respect of any period prior to the appointed day shall be the liability of such owner and shall be enforceable against him and not against the State Government or the State Corporation.

(2) Any liability arising in respect of—

(a) loans advanced by the Central Government or the State Government to a sick textile undertaking (together with interest due thereon) after the management of such undertaking had been taken over by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951);

(b) amounts advanced to a sick textile undertaking (after the management of such undertaking had been taken over by the Central Government under the said section 18AA), by the State Textile Corporation together with interest due thereon;

(c) wages, salaries and other dues of employees of the sick textile undertaking, in respect of any period after the management of such undertaking had been taken over by the Central Government under the said section 18AA, shall, on and from the appointed day, be the liability of the State Government and shall be discharged, for and on behalf of that Government, by the State

Textile Corporation as and when repayment of such loans or amounts become due or as and when such wages, salaries or other dues become due and payable.

(3) For the removal of doubts, it is hereby declared that—

(a) save as otherwise expressly provided in this section or in any other section of this Ordinance, no liability, other than the liability specified in sub-section (2), in relation to a sick textile undertaking in respect of any period prior to the appointed day, shall be enforceable against the State Government or the State Textile Corporation;

(b) no award, decree or order of any court, tribunal or other authority in relation to any sick textile undertakings passed after the appointed day in respect of any matter, claim or dispute, in relation to any matter not referred to in sub-section (2) which arose before that day, shall be enforceable against the State Government or the State Textile Corporation;

(c) no liability of any sick textile undertaking or any owner thereof for the contravention, before the management of such undertaking had been taken over by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951), of any provision of a law for the time being in force, shall be enforceable against the State Government or the State Textile Corporation.

6. *State Textile Corporation to form subsidiary corporations.*—(1) The State Textile Corporation may, if it considers it necessary to do so, form subsidiary corporations under the Companies Act, 1956 (Central Act 1 of 1956), and register them under that Act.

(2) The State Textile Corporation may, by order in writing, transfer any sick textile undertaking or part thereof to a subsidiary textile corporation and any such transfer shall be subject to such terms and conditions as may be specified in the said order.

(3) The subsidiary Textile Corporation shall, on and from the date of such transfer, be deemed to be substituted in the licence or other instrument referred to in sub-section (3) of section 4 in place of the State Textile Corporation as if such licence or other instrument had been granted to the Subsidiary Textile Corporation, and shall hold such licence or other instrument for the remainder of the period for which the State Textile Corporation would have held such licence or other instrument.

(4) On the transfer to a Subsidiary Textile Corporation of any sick textile undertaking or any part thereof, the liabilities required to be discharged by the State Textile Corporation under

sub-section (2) of section 5 shall, in so far as they relate to the sick textile undertaking or part thereof so transferred to the Subsidiary Textile Corporation, be discharged, on and from the date of such transfer, by the Subsidiary Textile Corporation as and when any such liability is required to be discharged.

(5) Save as otherwise expressly provided in this Ordinance, references in this Ordinance to the State Textile Corporation shall, in respect of any sick textile undertaking or any part thereof which is transferred to a Subsidiary Textile Corporation, be construed as references to the Subsidiary Textile Corporation.

7. *Shares to be issued by the State Textile Corporation for the value of the assets transferred to it by State Government.*—(1) An amount equal to the value of the assets of a sick textile undertaking transferred to, and vested in, the State Textile Corporation under sub-section (2) of section 3, shall be deemed to be the contribution made by the State Government to the equity capital of the State Textile Corporation; and for the contribution so made, the State Textile Corporation shall issue (if necessary after amending its memorandum and articles of association) to the State Government paid-up shares, in its equity capital, having a face value equal to the amount specified against the sick textile undertaking in the corresponding entry in column (4) of the First Schedule.

(2) Where any liability is assumed by the State Government under sub-section (1) of section 25, they may call upon the State Textile Corporation to issue (if necessary, after amending the memorandum and articles of association of the Corporation) to the State Government additional paid-up shares, in its equity capital, having a face value equal to the amount of the liability assumed by the State Government under the said sub-section.

CHAPTER III

PAYMENT OF AMOUNT

8. *Payment of amount to owners of sick textile undertakings.*—(1) The owner of every sick textile undertaking shall be given by the State Government, in cash and in the manner specified in Chapter VI, for the transfer to, and vesting in, it under sub-section (1) of section 3, of such sick textile undertaking and the right, title and interest of the owner in relation to such sick textile undertaking, an amount equal to the amount specified against it in the corresponding entry in column (4) of the First Schedule.

(2) In addition to the amount referred to in sub-section (1) there shall be given by the State Government, in cash, to the owner

of every sick textile undertaking, simple interest at the rate of four per cent per annum on the amount specified against such owner in the corresponding entry in column (4) of the First Schedule for the period commencing on the appointed day, and ending on the date on which payment of such amount is made by the State Government to the Commissioner.

9. *Payment of further amount.*—(1) Every Textile company shall be given by the State Government for the deprivation of management of its undertaking an amount of one thousand rupees per annum for the period commencing on the date on which the management of the undertaking of that company was taken over in pursuance of the order made by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951), and ending on the appointed day.

(2) The amount calculated in accordance with the provisions of sub-section (1) shall carry simple interest at the rate of four per cent per annum for the period commencing on the appointed day and ending on the date on which the payment of such amount is made by the State Government to the Commissioner.

(3) The amounts determined in relation to any textile company in accordance with the provisions of sub-sections (1) and (2) shall be given by the State Government to the textile company in addition to the amount specified in the First Schedule against that company.

CHAPTER IV

MANAGEMENT, ETC., OF SICK TEXTILE UNDERTAKINGS

10. *Management, etc., of sick textile undertakings.*—The State Textile Corporation or any person which that Corporation may, by order in writing, specify, shall be entitled to exercise the powers of general superintendence, direction, control and management of the affairs and business of a sick textile undertaking, the right, title and interest of an owner in relation to which have vested in that Corporation under sub-section (2) of section 3, and do all such things as the owner of the sick textile undertaking is authorised to exercise and do.

11. *Duty of persons in charge of management of sick textile undertakings to deliver all assets, etc.*—On the vesting of the management of a sick textile undertaking in the State Textile Corporation, all persons in charge of the management of such sick textile undertaking immediately before such vesting shall be bound to deliver to the State Textile Corporation all assets, books of account,

registers or other documents in their custody relating to the sick textile undertaking.

12. *Accounts.*—The State Textile Corporation shall maintain the accounts of sick textile undertakings in accordance with the provisions of the Companies Act, 1956 (Central Act I of 1956).

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF SICK TEXTILE UNDERTAKING

13. *Employment of certain employees to continue.*—(1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and has been immediately before the appointed day, employed in a sick textile undertaking shall become, on and from the appointed day, an employee of the State Textile Corporation with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if the rights in relation to such sick textile undertaking had not been transferred to, and vested in, the State Textile Corporation and shall continue to do so unless and until his employment in the State Textile Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the State Textile Corporation.

(2) Every person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and who has been, immediately before the appointed day, employed in a sick textile undertaking shall, in so far as such person is employed in connection with the sick textile undertaking which has vested in the State Textile Corporation, become, on and from the appointed day, an employee of the State Textile Corporation and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same under the sick textile undertaking if it had not vested in the State Textile Corporation and shall continue to do so unless and until his employment in the State Textile Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the State Textile Corporation.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law

for the time being in force, the transfer of the services of any officer or other person employed in a sick textile undertaking to the State Textile Corporation shall not entitle such officer or other employee to any compensation under this Ordinance or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) Where, under the terms of any contract of service or otherwise, any person whose services become terminated or whose services become transferred to the State Textile Corporation by reason of the provisions of this Ordinance is entitled to any arrears of salary or wages or any payment for any leave not availed of or other payment, not being payment by way of gratuity or pension, for any period prior to the take over of the management of a sick textile undertaking under section 18AA of the Industries (Development and Regulation) Act, 1951 (Central Act 65 of 1951), such person may, except to the extent such liability has been taken over by the State Government under section 5, enforce his claim against the owner of the sick textile undertaking but not against the State Government or the State Textile Corporation.

14. *Provident and other funds.*—(1) Where the owner of a sick textile undertaking has established a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in such sick textile undertaking, the moneys relatable to the employees, whose services have become transferred by or under this Ordinance to the State Textile Corporation shall, out of the moneys standing, on the appointed day, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and shall vest in, the State Textile Corporation.

(2) The moneys which stand transferred under sub-section (1) to the State Textile Corporation shall be dealt with by that Corporation in such manner as may be prescribed.

15. *Transfer of employees to Subsidiary Textile Corporation.*—Where any sick textile undertaking or any part thereof is transferred under this Ordinance to a Subsidiary Textile Corporation, every person referred to in sub-section (1) and sub-section (2) of section 13, shall, on and from the date of such transfer, become an employee of the Subsidiary Textile Corporation, and the provisions of sections 13 and 14 shall apply to such employee as they apply to an employee of the State Textile Corporation as if references in the said sections to the State Textile Corporation were references to the Subsidiary Textile Corporation.

CHAPTER VI

COMMISSIONERS OF PAYMENTS

16. *Appointment of Commissioners of Payments.*—(1) For the purpose of disbursing the amounts payable to the owner of each sick textile undertaking, the State Government shall, by notification in the Gazette,—

(a) appoint such persons as they may think fit to be Commissioners of Payments; and

(b) specify the sick textile undertaking or sick textile undertakings in respect of which each Commissioner of Payments shall exercise the powers conferred, and perform the duties imposed, on him by or under this Ordinance.

(2) The State Government may appoint such other persons as they may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Ordinance and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Ordinance and not by way of authorisation.

(4) The salaries and allowances of the Commissioners shall be defrayed out of the Consolidated Fund of the State of Kerala.

17. *Payment by State Government to the Commissioner.*—(1) The State Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to the owner of a sick textile undertaking, an amount equal to the amount specified against the sick textile undertaking in the First Schedule and shall also pay to the Commissioner such sums as may be due to the owner of a sick textile undertaking under sub-section (2) of section 8 and section 9.

(2) A separate account shall be opened by the State Government in favour of the Commissioner and every amount paid under this Ordinance to the Commissioner shall be deposited by him in that account and thereafter such account shall be operated by the Commissioner.

(3) Separate records shall be maintained by the Commissioner in respect of each sick textile undertaking in relation to which payments have been made to him under this Ordinance.

(4) Interest accruing on the amounts standing to the credit of the account referred to in sub-section (2) shall enure to the benefit of the owners of the sick textile undertakings.

18. *Claims to be made to the Commissioner.*—Every person having a claim against the owner of a sick textile undertaking shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days may entertain the claim within a further period of thirty days but not thereafter.

19. *Priority of claims.*—The claims arising out of the matters specified in the Second Schedule shall have priorities in accordance with the following principles, namely:—

(a) Category I will have precedence over all other categories and Category II will have a precedence over Category III and so on;

(b) The claims specified in each of the categories, except Category V, shall rank equally and be paid in full, but if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(c) The liabilities specified in Category V shall be discharged subject to the priorities specified in this section, in accordance with the terms of the secured loans and the priority, *inter se*, of such loans; and

(d) The question of payment of a liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

20. *Examination of claims.*—(1) On receipt of the claims under section 18, the Commissioner shall arrange the claims in the order of priority specified in the Second Schedule and examine the same in accordance with the said order.

(2) If, on examination of the claims, the Commissioner is of the opinion that the amount paid to him under this Ordinance is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the liabilities in respect of such lower category.

21. *Admission or rejection of claims.*—(1) After examining the claim with reference to the priority set out in the Second

Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursement made by the Commissioner.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of a daily newspaper in the English Language and one issue of a daily newspaper in the regional language, as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the owner of the sick textile undertaking an opportunity of refuting the claim and after giving the claimants a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sittings and shall, for the purpose of making any investigation under this Ordinance, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document or other material object producible as evidence;

(c) reception of evidence on affidavits;

(d) issue of commissions for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Central Act 45 of 1860), and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the sick textile undertaking is situated.

22. *Disbursement of money by the Commissioner to claimants.*—After admitting a claim under this Ordinance, the amount due in respect of such claim shall be credited by the Commissioner to the relevant fund or be paid to the person or persons to whom such sums are due and on such credit or payment the liability of the owner in respect of such claim shall stand discharged.

23. *Disbursement of amounts to the owners of sick textile undertaking.*—(1) If out of the moneys paid to him in relation to a sick textile undertaking, there is a balance left after meeting the liabilities as specified in the Second Schedule, the Commissioner shall disburse such balance to the owner of such sick textile undertaking.

(2) Before making any payment to the owner of any sick textile undertaking under sub-section (1), the Commissioner shall satisfy himself as to the right of such person to receive the whole or any part of such amount, and in the event of there being a doubt or dispute as to the right of the person to receive the whole or any part of the amount referred to in section 8, the Commissioner shall refer the matter to the Court and make the disbursement in accordance with the decision of the Court.

(3) For the removal of doubts, it is hereby declared that the entries in column (3) of the First Schedule shall not be deemed to be conclusive as to the right, title and interest of any person in relation to any sick textile undertaking specified in the corresponding entries in column (2) of the said Schedule, and evidence shall be admissible to establish the right, title and interest of any person in relation to such sick textile undertaking.

(4) Where any machinery, equipment or other property in a sick textile undertaking has vested in the State Textile Corporation but such machinery, equipment or other property does not belong to the owner of such sick textile undertaking, the amount specified in column (4) of the First Schedule against such sick textile undertaking shall, on a reference made to it by the Commissioner, be apportioned by the court between the owner of such sick textile undertaking and the owner of such machinery, equipment or other property having due regard to the value of such machinery, equipment or other property on the appointed day.

Explanation.—In this section, "court", in relation to a sick textile undertaking, means the principal civil court of original jurisdiction within the local limits of whose jurisdiction the sick textile undertaking is situated.

24. *Undisbursed or unclaimed amounts to be deposited to the general revenue account.*—Any money paid to the Commissioner

which remains undisbursed or unclaimed for a period of three years from the last day on which the disbursement was made, shall be transferred by the Commissioner to the general revenue account of the State Government, but a claim to any money so transferred may be preferred to the State Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

25. *Assumption of liability.*—(1) Where any liability of a sick textile undertaking arising out of any claim specified in Category I, Category II or Category III or Category IV in the Second Schedule is not discharged fully by the Commissioner out of the amount paid to him under this Ordinance, the Commissioner shall intimate in writing to the State Government the extent of the liability which remains undischarged, and that liability shall be assumed by the State Government.

(2) The liability assumed by the State Government under sub-section (1) shall be discharged by payment of the amount of the liability in negotiable bonds redeemable after the expiry of ten years and carrying simple interest at the rate of seven and a half per cent per annum with effect from the appointed day.

26. *Ordinance to over-ride all other enactments.*—The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any instrument having effect by virtue of any law other than this Ordinance, or in any decree or order of any court, tribunal or authority.

27. *Contracts to cease to have effect unless ratified by State Textile Corporation.*—(1) Every contract entered into by the owner or occupier of any sick textile undertaking for any service, sale or supply and in force immediately before the appointed day shall, on and from the expiry of one hundred and eighty days from the date of commencement of this Ordinance, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the State Textile Corporation, and in ratifying such contract the State Textile Corporation may, with the previous approval of the State Government, make such alterations or modifications therein as it may think fit:

Provided that State Textile Corporation shall not omit to ratify a contract, and shall not make any alteration or modification in a contract, unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the sick textile undertaking.

(2) The State Textile Corporation shall not omit to ratify a contract, and shall not make any alteration or modification therein, except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

28. *Penalties.*—Any person who,—

(a) having in his possession, custody or control any property forming part of a sick textile undertaking, wrongfully withholds such property from the State Government or the State Textile Corporation, or any person authorised by that Government or Corporation, as the case may be, in this behalf; or

(b) wrongfully obtains possession of, or retains, any property forming part of the sick textile undertaking or wilfully withholds or fails to furnish to the State Government, the State Textile Corporation or any person specified by that Government or Corporation, as the case may be, any document relating to such sick textile undertaking which may be in his possession, custody or control or fails to deliver to the State Textile Corporation or any person specified by that Corporation any assets, books of account, registers or other documents in his custody relating to the sick textile undertaking; or

(c) wrongfully removes or destroys any property forming part of any sick textile undertaking or prefers any claim under this Ordinance which he knows or has reasonable cause to believe to be false or grossly inaccurate, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

29. *Offences by companies.*—(1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

30. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of that Government or the authorised person or the State Textile Corporation or any Subsidiary Textile Corporation or any officer or other person authorised by either of such Corporations for anything which is in good faith done or intended to be done under this Ordinance.

31. *Delegation of powers.*—(1) The State Government may, by notification in the Gazette, direct that all or any of the powers exercisable by them under this Ordinance other than the power under section 34 may also be exercised by any person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the State Government.

32. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government may, by order not inconsistent with the provisions of this Ordinance, remove such difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Ordinance.

33. *Declaration as to the policy of the State.*—It is hereby declared that this Ordinance is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

Explanation.—In this section, "State" has the same meaning as in article 12 of the Constitution.

34. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which and the manner in which an intimation referred to in sub-section (4) of section 4 shall be given;

(b) the manner in which moneys in any provident or other fund referred to in section 14 shall be dealt with;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

35. *Repeal and saving.*—(1) The Kerala Sick Textile Undertakings (Acquisition and Transfer of Undertakings) Ordinance, 1984 (99 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Ordinance.

The First Schedule

[*See* sections 2(g), 2(j), 4(5) and 8]

Sl. No.	*Name of the sick textile undertaking*	*Name of the owner*	*Amount (in rupees)*
(1)	(2)	(3)	(4)
1.	Malabar Spinning and Weaving Mills, P.O. Kallai, Calicut	Malabar Spinning and Weaving Company Ltd., P.O. Kallai, Calicut 673003, Kerala	30,60,524
2.	Prabhuram Mills, P.O. Kottah, Chengannur	Prabhuram Mills Ltd., P.O. Kottah, (Via) Chengannur, Kerala	17,06,229
3.	Kottayam Textiles, Kurumullur P.O., (Via) Ettumanur, Kottayam District	Kottayam Textiles Ltd., Vedagri, Kurumullur P.O., (Via) Ettumanur, Kottayam District, Kerala	41,10,533

The Second Schedule

(*See* sections 19, 20, 21 and 25)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES IN RESPECT OF A SICK TEXTILE UNDERTAKING

PART I

Category—I

Arrears in relation to provident fund, salaries and wages, and other amounts, due to an employee for the pre-take over management period.

PART II—OTHER LIABILITIES

(A) POST-TAKEOVER MANAGEMENT PERIOD

Category—II

(a) Loans advanced by a Bank.
(b) Loans advanced by an Institution other than a Bank.
(c) Any other loan.
(d) Any credit availed of for purposes of trade or manufacturing operations.

Category—III

(a) Revenue, taxes, cesses, rates or any other dues to the Central Government or a State Government.
(b) Any other dues.

(B) PRE-TAKEOVER MANAGEMENT PERIOD

Category—IV

Principal amounts of the secured loans advanced by any nationalised Bank or public financial institution.

Category—V

Secured loans other than those specified under Category IV.

Category—VI

Revenue, taxes, cesses, rates or any other dues to the Central Government, a State Government, a local authority or a State Electricity Board.

Category—VII

(a) Any credit availed of for purpose of trade or manufacturing operations.

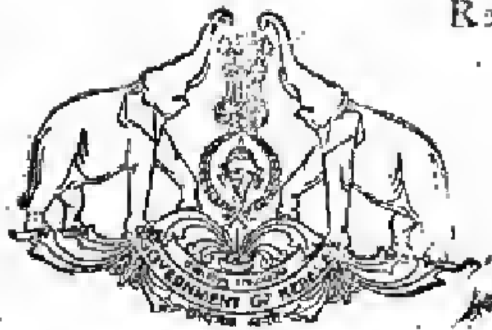
(b) Any other dues.

Category—VIII

Interest amounts on the secured loans advanced by any nationalised bank or public financial institution.

P. RAMACHANDRAN,
GOVERNOR.

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXX] Trivandrum, Wednesday, 17th April 1985 / 27th Chaithra 1907 [No. 331

GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 16597|Leg. C2|84|Law. *Dated, Trivandrum, 17th April, 1985|*
27th Chaithra, 1907.

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,
P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33|1570|MC.

ORDINANCE No. 14 OF 1985

THE KERALA MUNICIPALITIES (SECOND AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Municipalities Act, 1960 *and for certain matters incidental thereto.*

Preamble.—WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the Kerala Municipalities (Second Amendment Ordinance, 1985 (4 of 1985), promulgated by the Governor of Kerala on the 28th day of February, 1985, will cease to operate on the 17th day of April, 1985;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Municipalities (Second Amendment) Ordinance, 1985.

(2) Section 3 of this Ordinance shall be deemed to have come into force on the 1st day of September, 1984 and the remaining provisions shall be deemed to have come into force on the 30th day of September, 1984.

2. *Act* 14 *of* 1961 *to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Municipalities Act, 1960 (14 of 1961) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section* 8.—In section 8 of the principal Act, in sub-section (1), the proviso shall be omitted.

4. *Special provision for vesting of the functions of council, Chairman, standing committee and other committees of certain municipalities in the Government for temporary period.*—Notwithstanding anything to the contrary contained in the principal Act or in any rule or bye-law made thereunder or in any judgement, decree or order of any court, in the case of every municipality the term of office of the councillors of which expires on the 30th day of September, 1984, the functions of the council and of its Chairman and of the standing committee and other committees shall, by virtue of this section, be vested in the Government for a period of one year from the date immediately succeeding the said date, and the functions so vested shall be exercised by the Government in accordance with such rules as may be prescribed by them in that behalf.

5. *Repeal and saving.*—(1) The Kerala Municipalities (Second Amendment) Ordinance, 1985 (4 of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance or under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Ordinance or under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 10540|Leg. C2|84|Law. *Dated, Trivandrum, 17th April, 1985| 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

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THE KERALA WATER AND WASTE WATER ORDINANCE, 1985

Arrangement of sections

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ORDINANCE No. 17 OF 1985

THE KERALA WATER AND WASTE WATER ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to provide for the establishment of an autonomous authority for the development and regulation of water supply and waste water collection and disposal in the State of Kerala and for matters connected therewith.

Preamble.—WHEREAS the Kerala Water and Waste Water Ordinance, 1984 (14 of 1984), was promulgated by the Governor of Kerala on the 1st day of February, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Water and Waste Water Ordinance, 1984 (39 of 1984), was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 39 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 39 of 1984, the Kerala Water and Waste Water Ordinance, 1984 (60 of 1984), was promulgated by the Governor of Kerala on the 30th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 60 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 60 of 1984, the Kerala Water and Waste Water Ordinance, 1984 (102 of 1984), was promulgated by the Governor of Kerala on the 3rd day of December, 1984;

AND WHEREAS a Bill to replace Ordinance 102 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 102 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

Chapter I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Kerala Water and Waste Water Ordinance, 1985.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 1st day of March, 1984.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(i) "Authority" means the Kerala Water and Waste Water Authority constituted under section 3;

(ii) "cess-pool" includes a settlement tank or other tank to receive or dispose of foul matters from any premises;

(iii) "Chairman" means the Chairman of the Authority;

(iv) "communication pipe" means any pipe or system of pipes along with all fittings thereto, by means of which water is supplied to any premises from the main and includes a connection pipe, service pipe, meter or other fittings;

(v) "connection pipe" means any water pipe from a ferrule to stop cock connecting the distribution main with the service pipe;

(vi) "consumer" means any person getting the benefit of any water supply or waste water service from the Authority;

(vii) "domestic sewage" means waste water from any residence, boarding or lodging-house, hostel, hotel, public place, office or any such establishment as is not a part of any trade or industry and arising out of personal and normal human activities such as drinking, bathing, ablution, washing and cooking;

(viii) "drain" means every part of any conduit laid through, under or above a street, way or land whether public or private by or at the expense of the owner or occupier of any premises for the carriage therefrom of any waste water to any sewer;

(ix) "ferrule" means a ferrule connecting the connection pipe with the main;

(x) "local area" means the area falling within the jurisdiction of a local body;

(xi) "local body" means a city corporation, a municipal council, a township or a panchayat;

(xii) "main" means a pipe laid by the Authority for the purpose of giving a general supply of water as distinct from a supply to an individual consumer, and includes any apparatus used in connection with such a pipe;

(xiii) "Managing Director" means the Managing Director of the Authority;

(xiv) "member" means a member of the Authority;

(xv) "occupier" in relation to any premises, includes—

(a) any person for the time being paying or liable to pay rent or any portion thereof to the owner in respect of those premises;

(b) the owner who is in occupation of the premises;

(c) a tenant of the premises who is exempt from payment of rent;

(d) a licensee who is in occupation of the premises; and

(e) any person who is liable to pay damages to the owner in respect of use and occupation of the premises.

(xvi) "owner", in relation to any premises, means the person who receives the rent of that premises or who would be entitled to receive the rent thereof if the premises were let and includes,—

(a) an agent or trustee who receives such rent on account of the owner;

(b) an agent or trustee who receives the rent of, or is entrusted with the management of, any premises devoted to religious or charitable purposes;

(c) a receiver or manager appointed by any court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of the said premises; and

(d) a mortgagee in possession;

(xvii) "premises" means any land or building and includes—

(a) the garden, land and outhouses, if any, appertaining to a building or part of a building; and

(b) any fittings affixed to a building or part of a building for more beneficial enjoyment thereof;

(xviii) "prescribed" means prescribed by rules made under this Ordinance;

(xix) "private street" means any street, road, square, court, alley, passage or riding-path which is not a "public street", but does not include a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises;

(xx) "public street" means any street, road, square, court, alley, passage or riding-path over which the public have a right of way, whether a thoroughfare or not, and includes—

(a) the roadway over any public bridge or causeway;

(b) the foot-way attached to any such street, public bridge or causeway; and

(c) the drains attached to any such street, public bridge or causeway and the land, whether covered or not by any pavement, veranda, or other structure, which lies on either side of the roadway upto the boundaries of the adjacent property, whether that property is private property or property belonging to the Government;

(xxi) "regulations" means regulations made by the Authority under this Ordinance;

(xxii) "rules" means rules made under this Ordinance;

(xxiii) "service pipe" means any pipe other than the connection pipe beyond the stop cock by means of which the water is supplied to any premises;

(xxiv) "sewage" means night soil and other contents of a water close, latrines, privies, urinals, cess-pools or drains and polluted water from sinks, bath-rooms, stables and other like places and includes trade effluents;

(xxv) "sewer" means a closed conduit for carrying sewage, offensive matter, polluted water, waste-water or sub soil water;

(xxvi) "sewerage" means a system of collection of waste water from a community from its houses, institutions, industry and public places, the pumping, treatment and disposal of such waste water, its effluent, sludge, gas and other end products;

(xxvii) "State" means the State of Kerala;

(xxviii) "stop cock" means a stop cock fitted at the end of a connection pipe away from the main for the purpose of switching off and regulating the water supply to any premises;

(xxix) "street" means a private street or a public street;

(xxx) "trade effluent" means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced or discharged in the course of any trade or industry including agriculture and horticulture, but does not include domestic sewerage;

(xxxi) "waste water" shall include domestic sewage, spent water and all waste water let out from any industries or by any other source;

(xxxii) "water connection" includes,

(a) a tank, cistern, hydrant, stand pipe, meter or tap, situated on any private property and connected with a main or other pipe belonging to the Authority;

(b) the water pipe connecting such a tank, cistern, hydrant, stand-pipe, meter or tap with such main or pipe;

(xxxiii) "water supply" means a system of providing water to a community for meeting its requirement for drinking and other domestic uses, industry, recreation and various public uses, but does not include providing water for irrigation purposes;

(xxxiv) "water works" includes water channel (including stream, lake, spring, river or canal, well pump, galleries, reservoir, cistern tank), duct, whether covered or open, treatment units, sluice supply main, culvert, engine, water-truck, hydrants, stand-pipe, conduit and machinery, land, building or other things for supplying or used for supplying water or for protecting sources of water supply or for treatment of water.

Chapter II

ESTABLISHMENT, CONDUCT OF BUSINESS, FUNCTIONS AND POWERS OF THE AUTHORITY

3. *Establishment of Kerala Water and Waste Water Authority.*—(1) The Government shall, by notification in the Gazette and with effect from such date as may be specified therein, establish an autonomous authority to be called the Kerala Water and Waste Water Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall for all purposes be deemed to be a local authority.

(4) The Authority shall have its head office at Trivandrum and may have offices at such other places as it may consider necessary.

4. *Constitution of the Authority.*—The Authority shall consist of the following members, namely:—

(a) the Minister in charge of Public Health Engineering Department, who shall be the Chairman;

(b) a Managing Director, who shall be a qualified Public Health Engineer with experience in the management and administration of water and waste water systems, appointed by the Government;

(c) the Secretary to Government in charge of Public Health Engineering Department, *ex-officio*;

(d) the Finance Secretary to Government, *ex-officio*;

(e) the Secretary to Government in charge of Local Administration Department, *ex-officio*;

(f) a member representing the local bodies in the State, appointed by the Government; and

(g) a member belonging to a Scheduled Caste or Scheduled Tribe, appointed by the Government.

5. *Disqualification for being a member.*—A person shall be disqualified for being chosen as, and for being a member if he—

(a) has been convicted of an offence involving moral turpitude;

(b) is an undischarged insolvent;

(c) is of unsound mind and stands so declared by a competent court;

(d) holds, except as provided in sections 6 and 7, any office of profit under the Authority;

(e) has directly or indirectly by himself or by any partner, employer or employee, any share or interest, whether pecuniary or of any other nature, in any contract or employment with, by or on behalf of the Authority.

6. *Term of office of Managing Director and non-official members.*—(1) The Managing Director and a member referred to in clause (f) or clause (g) of section 4 shall hold office for a period of three years unless their term is terminated earlier by the Government by notification in the Gazette, and shall be eligible for reappointment.

(2) The Managing Director and the members referred to in sub-section (1) shall hold office on such terms and conditions as the Government may, by order, specify.

(3) The members (including the Managing Director) shall be entitled to such travelling and daily allowances as may be prescribed.

(4) The Managing Director or the members referred to in sub-section (1) may resign his office by writing under his signature addressed to the Chairman and on such resignation being accepted he shall be deemed to have vacated his office.

7. *Remuneration of Managing Director and filling up of temporary vacancies.*—(1) The Managing Director shall be paid from the Authority's fund such remuneration as may be fixed by the Government from time to time.

(2) If any member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave otherwise in circumstances not involving the vacation of his appointment, the Government may appoint another person to officiate for him and to carry out his functions under this Ordinance.

8. *Appointment of officers and staff.*—(1) Subject to the provisions of sub-section (2), the Authority may appoint for the purpose of enabling it to carry out its powers, duties and functions under this Ordinance, a Secretary and such other officers and staff as may be required against posts duly sanctioned by it with the previous approval of the Government.

(2) The Authority may, with the previous approval of the Government, appoint a servant of the Central Government or the State Government as an employee of the Authority on such terms and conditions as it thinks fit.

(3) Except as provided in this section, the appointment and conditions of service of the officers and employees of the Authority shall be governed by rules made by the Government from time to time.

9. *Supervision and control of employees.*—Subject to the superintendence of the Authority, the Managing Director shall have the general control and direction over all the employees of the Authority.

10. *Authentication of orders and other instruments of the Authority.*—(1) All proceedings of the Authority shall be authenticated by the signature of the Chairman and all orders and other instruments of the Authority shall be authenticated by the signature of such officer of the Authority as may be authorised in this behalf by regulations.

(2) The Authority may invite any person to attend a meeting of the Authority for the purpose of assisting or advising it on any matter and the persons so invited may take part in the proceedings of the Authority, but shall have no right to vote.

11. *Delegation of powers.*—Subject to the provisions of this Ordinance, the Authority may, by general or special order, delegate either unconditionally or subject to such conditions as may be specified in the order, to any committee appointed by it or to the Chairman, or the Managing Director

or any other officer of the Authority such of its powers and duties under this Ordinance as it deems fit, not being its powers and duties under sections 25, 28, 29 and 66.

12. *Disqualification for participation in the proceedings of the Authority on account of interest.*—(1) The Chairman or any other member of the Authority or of a committee appointed by the Authority who has acted professionally, in relation to any matter on behalf of any person having any such share or interest as aforesaid, shall not vote or take part in any proceeding (including any discussion on any resolution or question) of the Authority or of any committee thereof relating to such matter.

(2) If any member of the Authority or of a committee appointed by the Authority has directly or indirectly any interest in any area in which it is proposed to acquire land for any of the purposes of this Ordinance he shall not take part in any meeting of the Authority or any committee thereof in which any matter relating to such land is considered.

13. *Acts not to be invalidated by irregularity, vacancy, etc.*—No act done or proceeding taken under this Ordinance by the Authority or a committee appointed by the Authority shall be invalidated merely on the ground of—

(a) any vacancy in, or defect in the constitution of the Authority or any committee thereof, or;

(b) any defect or irregularity in the appointment of a person acting as a member thereof, or;

(c) any defect or irregularity in such act or proceeding, not affecting the substance.

14. *Functions of the Authority.*—The Authority shall perform all or any of the following functions, namely:—

(i) preparation, execution, promotion, operation, maintenance and financing of the schemes for the supply of water and for the disposal of waste water;

(ii) rendering all necessary services in regard to water supply and collection and disposal of waste water to the Government and on request to private institutions or individuals;

(iii) preparation of State plans for water supply and collection and disposal of waste water on the directions of the Government;

(iv) fixation and revision of tariffs, taxes and charges of water supply and maintenance service in the areas covered by the water supply and waste water systems of the Authority;

(v) establishment of State standards for water supply and waste water services;

(vi) all functions, not stated herein which were being performed by the Public Health Engineering Department of the Government before the commencement of this Ordinance;

(vii) assessment of the requirements for manpower and training in relation to water supply and sewerage services in the State;

(viii) carrying out applied research for the efficient discharge of the functions of the Authority;

(ix) making provision for the supply of wholesome water and efficient sewerage services to the people in the State;

(x) taking such other measures as may be necessary to ensure water supply in times of emergency; and

(xi) such other functions as may be entrusted to the Authority by the Government by notification in the Gazette.

15. *Powers of the Authority.*—(1) The Authority shall, subject to the provisions of this Ordinance, have power to do anything which may be necessary or expedient for carrying out its functions under this Ordinance.

(2) Without prejudice to the generality of the foregoing provisions, such power shall include the power—

(i) to obtain such periodic or specific information from any local body as it may deem necessary;

(ii) to prepare and carry out schemes for water supply and sewerage and to exercise all powers and perform all functions relating thereto:

Provided that the power of sanctioning schemes costing more than twenty-five lakhs of rupees shall be exercised only with the previous approval of the Government;

(iii) to lay down the schedule of fees for all services rendered by the Authority to the Government, local bodies, institutions or individuals, to fix or amend tariffs and charges for water supply and sewerage services and collect all such fees and charges for these services as may be prescribed;

(iv) to enter into contract or agreement with any person, firm or institution as the Authority may deem necessary, for performing its functions under this Ordinance:

Provided that any contract or agreement involving more than twenty-five lakhs of rupees shall be entered into by the Authority only with the previous approval of the Government;

(v) to adopt its own budget annually subject to the previous approval of the Government;

(vi) to abstract water from any natural source with the permission of the Government and dispose of waste water;

(vii) to borrow money, issue debentures, to obtain subventions and grants, to incur expenditure and manage its own funds;

(viii) to grant loans and advances to such persons or authorities as the Authority may deem necessary for performing the functions under this Ordinance;

(ix) to acquire, possess and hold lands and other property and to carry any water or sewerage works through, across, over or under any highway, road, street or place and, after reasonable notice in writing to the owner or occupier, into, through, over or under any building or land.

Chapter III

VESTING OF PROPERTIES, ASSETS, LIABILITIES AND OBLIGATIONS AND TRANSFER OF EMPLOYEES

16. *Vesting of property in Authority etc.*—(1) As from the date of establishment of the Authority, (hereinafter in this Chapter referred to as "the appointed day"),—

(a) (i) all properties and assets (including water works, buildings, laboratories, stores, vehicles, furniture and other furnishing), all the existing water supply and sewerage services, sewerage works and sewage farms including, as the case may be, all plants, machineries, water works, pumping stations, filter beds, water mains and public sewers in, along, over or under any public street and all buildings, lands and other works, materials, stores and things appertaining thereto; and

(ii) so much of the subsoil appertaining to the said water mains and sewers as may be necessary for the purpose of enlarging, deepening or otherwise repairing or maintaining any such water mains and sewers or any pipes and other appliances and fittings connected with such water supply and sewerage services and sewage works and sewage farms which immediately before the appointed day were vested in the Government for the purposes of the Public Health Engineering Department,

shall vest in and stand transferred to the Authority;

(b) all the rights, liabilities and obligations of the Government whether arising out of any contract or otherwise pertaining to the said department including the right to recover arrears of water tax and sewage tax and of any cost or fees relating to water supply and sewerage services shall be the rights, liabilities and obligations of the Authority; and

(c) all the assets, rights, liabilities and obligations of the Kerala State Rural Development Board constituted under the Kerala State Rural Development Board Act, 1971 (15 of 1971), in so far as they pertain to execution of water supply and sewerage schemes in the panchayat areas including the right to recover arrears of annual instalments from panchayats towards expenditure on water supply and sewerage schemes under section 13 of the said Act,

shall be the assets, rights, liabilities and obligations of the Authority.

(2) The properties, assets, rights, liabilities and obligations referred to in sub-section (1) shall be valued in such manner as the Government may determine.

(3) All suits and other legal proceedings instituted or defended or which might but for the vesting and transfer under sub-section (1) have been instituted or defended by or against the Government may be continued or instituted or defended by or against the Authority.

17. *Decision of Government on the vesting of property to be final.*—Where any doubt or dispute arises as to whether any property or asset has vested in the Authority under section 16 or any rights, liabilities or obligations have become the rights, liabilities and obligations of the Authority under that section, such doubt or dispute shall be referred to the Government whose decision thereon shall be final.

18. *Vesting of existing water supply and sewerage services under local bodies.*—(1) As from the date following the expiry of a period of three years from the appointed day or such further period as may be specified by the Government in this behalf by notification in the Gazette,—

(a) all the water supply and sewerage services, sewerage works and sewage farms including all the plants, machineries, pumping stations, distribution lines and public sewers in, along, over or any public street and all buildings, lands and other works, materials, stores and things appertaining thereto;

(b) so much of the subsoil appertaining to the said distribution lines and sewers as may be necessary for the purpose of enlarging, deepening or otherwise repairing or maintaining any such distribution lines and sewers or any pipes and other appliances and fittings connected with such water supply and sewerage services and sewerage works; and

(c) all rights, liabilities and obligations including the right to recover arrears of water charges, meter hire and of any cost or fees relating to water supply and sewerage services,

which immediately before the above mentioned date vested in any local body shall vest in and stand transferred to the Authority

(2) The properties, assets, rights, liabilities and obligations referred to in sub-section (1) shall be valued in such manner as the Government may determine.

(3) Where any doubt or dispute arises as to whether any property or asset has vested in the Authority or any right, liability or obligation has become the right, liability or obligation of the Authority under this section, such doubt or dispute shall be referred to the Government whose decision thereon shall be final and binding on the Authority and the local body concerned.

19. *Transfer of employees to the Authority.*—(1) Save as otherwise provided in this section, every person who was employed in the Public Health Engineering Department of the Government shall, on and from the appointed day become an employee of the Authority and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions, and with the same rights and privileges as to pension, gratuity and other matters as he would have held the same on the appointed day if this Ordinance had not come into force and shall continue to do so until his employment in the Authority is terminated or until his remuneration or other terms and conditions of service are revised or altered by the Authority under or in pursuance of any law or in accordance with any provision which for the time being governs his service:

Provided that nothing contained in this sub-section shall apply to an employee in the cadres of the Administrative Officers, Financial Assistants, Divisional Accountants, Typists and Stenographers, who, by notice in writing given to the Government and the Authority within such time as the Government may, by general or special order, specify, intimates his intention of not becoming an employee of the Authority:

Provided further that an employee referred to in the preceding proviso shall continue to be an employee under the Government and shall be provided elsewhere in any post or other service under the Government.

(2) The sums standing in the credit of the employees referred to in sub-section (1) in any pension, provident fund, gratuity or other like fund constituted for them shall be transferred by the Government to the Authority along with any accumulated interest due till the appointed day and with the accounts relating to such funds and the Authority shall, to the exclusion of the Government, be liable for payment of pension, provident fund, gratuity or other like sums as may be payable to such employees at the appropriate time in accordance with the conditions of their service.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, the transfer of service of an employee to the Authority under sub-section (1) shall not entitle any such employee to any compensation under

that Act or such other law and no such claim shall be entertained by any court, tribunal or other authority.

(4) Every permanent or temporary employee of the Public Health Engineering Department of the State Government under sub-section (1) shall on and from the appointed day, be a permanent or temporary employee, as the case may be, of the Authority, against a permanent or temporary post which shall stand created in the establishment of the Authority with effect on and from the appointed day.

(5) An employee referred to in the first proviso to sub-section (1) shall be deemed to have continued in the service of the Government between the appointed day and the date of relief from the establishment of the Authority after receipt of his notice in writing addressed to the Authority referred to in that proviso and the Authority shall be entitled to reimbursement from the Government of the remuneration paid by it to such employee for such period.

(6) Nothing in any rule, regulation or order applicable to Government servants in relation to retrenchment or abolition of posts shall apply to any employee referred to in sub-section (1).

(7) Notwithstanding anything contained in the foregoing sub-sections, the authority shall be competent to take such disciplinary or other action as it thinks fit or to continue any such action already initiated against or in respect of any employee who becomes an employee of the Authority under sub-section (1) in respect of any act or omission or conduct or record of such employee while he was in the service of the Government.

20. *Transfer of employees of Local Bodies to the Authority.*—(1) Save as otherwise provided in this section, an employee who was employed exclusively in connection with water supply or sewerage service or sewerage works under a local body whose properties, assets, and water supply and sewerage services have been transferred to the Authority under section 18 shall, on and from the date of transfer of such property and assets to the Authority, become an employee of the Authority.

(2) Notwithstanding anything contained in sub-section (1) but subject to any express agreement to the contrary, any employee referred to therein other than a workman as defined in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), who becomes an employee of the Authority shall be liable for transfer from any establishment or undertaking in which he was employed immediately before the said date to any other establishment or undertaking belonging to the Authority at the same remuneration and on the same terms and conditions as were applicable to them immediately before such transfer.

(3) If any question arises as to whether any person was exclusively employed in connection with the water supply or sewerage services or sewerage

works under a local body immediately before the said date, such question shall be decided by the Government.

(4) The sums standing to the credit of the employees referred to in sub-section (1) in any pension, provident fund, gratuity or other like funds constituted for them shall be transferred by the local body concerned to the Authority along with any accumulated interest due till the said date and with the accounts relating to the said fund and the Authority shall, to the exclusion of the local body, be liable for payment of pension, provident fund, gratuity or other like sums as may be payable to such employees at the appropriate time in accordance with the conditions of their service.

(5) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, the transfer of services of an employee to the Authority under sub-section (1) shall not entitle any such employee to any compensation under that Act or such other law and no such claim shall be entertained by any court, tribunal or authority.

(6) Every permanent or temporary employee of a local body becoming an employee of the Authority under sub-section (1) shall, on and from the said date be a permanent or temporary employee, as the case may be, of the Authority, against a permanent or temporary post which shall stand created in the establishment of the Authority with effect from the said date.

(7) Nothing in any rule, regulations or order applicable to employees of the local bodies in relation to retrenchment or abolition of posts shall apply to any employee referred to in sub-section (1).

(8) Notwithstanding anything contained in the foregoing sub-sections, the Authority shall be competent to take such disciplinary or other action as it thinks fit or to continue any such action already initiated against or in respect of any employee who becomes an employee of the Authority under sub-section (1) in respect of any act or omission or conduct or record of such employee while he was in the service of the local body.

Chapter IV

PROPERTY, CONTRACT, FINANCE, ACCOUNTS AND AUDIT

21. *Execution and registration of contracts etc.*—Every contract for assurance of property on behalf of the Authority shall be in writing and executed by such officer and in such manner as may be provided by the regulations.

22. *Funds of Authority.*—(1) The Authority shall have its own fund to be called the "Kerala Water and Waste Water Authority Fund" which shall be deemed to be a local fund and to which shall be credited all moneys received otherwise than by way of loans by or on behalf of the Authority.

(2) The Authority shall also have another fund to be called the "Kerala Water and Waste Water Authority's Loan Fund" which shall also be deemed to be a local fund and to which shall be credited all moneys received by or on behalf of the Authority by way of loans.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the Authority may, with the previous approval of the Government, constitute such other funds as may be necessary for the efficient performance of its functions under this Ordinance.

(4) All moneys specified in the foregoing provisions and forming part of the funds of the Authority shall be deposited under such detailed Heads of Account as may be prescribed—

(a) into the Public Account of the Government; or

(b) in the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955); or

(c) in a Subsidiary Bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959); or

(d) in any nationalised Bank coming within the scope of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970) or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);

and the said account shall be operated upon by such officers of the Authority as may be authorised by the Authority and in such manner as may be prescribed:

Provided that the Authority may invest any sum not required for immediate use in such securities or debentures as may be approved by the Government.

23. *General principles for the Authority's finance.*—The Authority shall not, as far as practicable and after taking credit for any grant or subventions or capital contributions or loans from the Government under section 24, carry on its operations under this Ordinance at a loss and shall so fix and adjust its rates of taxes and charges under this Ordinance as to enable it to meet as soon as feasible the cost of its operations, maintenance and debt service and where practicable to achieve an economic return on its fixed assets.

24. *Grants, subventions, etc., to the Authority.*—The Government may, after due appropriation by law of the State Legislature, from time to time make grants, subventions and capital contributions, and advance loans to the Authority for the purposes of this Ordinance on such terms and conditions as the Government may determine.

25. *Power of Authority to borrow.*—(1) Notwithstanding anything contained in any law for the time being in force under which any local body is constituted, the Authority shall with effect from the date of its establishment be the only local authority authorised to borrow any sum of money for water supply and sewerage works.

(2) Without prejudice to the provisions of sub-section (1), the Authority may, from time to time, with the previous sanction of the Government and subject to the provisions of this Ordinance and to such conditions as the Government may, by general or special order, determine, borrow any sum required for the purposes of this Ordinance whether by the issue of bonds or stock or otherwise or by making arrangements with Banks or other bodies or institutions approved by the Government in that behalf.

(3) Stocks issued by the Authority under this section shall be issued, transferred, dealt with and redeemed in such manner as the Government may, by general or special order, direct.

26. *Depreciation Reserve.*—The Authority shall create a Depreciation Reserve and make annual provision therefor in accordance with such principles as may be prescribed.

27. *Guarantee for loans.*—(1) Government may guarantee the repayment of any loan and payment of interest on all loans made or transferred to the Authority for the purposes of this Ordinance.

(2) The Government shall, so long as any such guarantee is in force, lay before the State Legislature in every year during the budget session, a statement of the guarantees, if any, given during the current financial year and up-to-date accounts of the total sums, if any, which have been paid out of the Consolidated Fund of the State by reason of any such guarantee or paid into the said Fund towards repayment of any moneys so paid out.

28. *Estimates of income and expenditure.*—(1) The Authority shall before the commencement of, and may at any time during, a financial year prepare a statement or a supplementary statement, as the case may be, of the programme of its activities during the year as well as a financial estimate in respect thereof and the same shall be submitted in such manner, in such form and by such dates as the Government may, by general or special order, direct, for the previous approval of the Government:

Provided that in the event of such previous approval not being received before the commencement of the financial year for which such financial statement has been submitted, the Authority shall be entitled to expend on all accounts upto an amount not exceeding the amount approved for the corresponding period of the previous financial year and such amount shall not include any sum spent out of grants and subventions during the said period.

(2) Every financial estimate referred to in sub-section (1) shall make provision for the due fulfilment of all the liabilities of the Authority and for the efficient administration of this Ordinance.

(3) Save where in the opinion of the Authority circumstances of extreme urgency have arisen, no sum exceeding one lakh of rupees on account of recurring expenditure or exceeding five lakhs of rupees on account of non-recurring expenditure shall be expended by the Authority in any year of account unless such sum has been included in a financial estimate submitted under sub-section (1) to the Government.

(4) Where any such sum is expended under circumstances of extreme urgency, a report thereon indicating the sources from which it is proposed to meet the expenditure shall be made as soon as practicable to the Government.

29. *Accounts and Audit.*—(1) The Authority shall cause to be maintained such books of accounts and other books in relation to its accounts and prepare an annual statement of account and balance sheet in such form and in such manner as the regulations may require.

(2) The accounts of the Authority shall be audited by such Auditor, in such manner and at such time as the Government may, by general or special order, direct and the Auditor so appointed shall have such powers of requiring the production of documents and the furnishing of information respecting such matters, and shall have such powers in respect of disallowance and surcharge as may be prescribed.

(3) The accounts of the Authority as certified by the Auditor together with the audit report thereon shall be forwarded annually to the Government who may issue such directions to the Authority as they may deem fit and the Authority shall comply with such directions.

(4) The Government shall,—

(a) cause the accounts of the Authority together with the audit report thereon received by it under sub-section (3) to be laid annually before the State Legislature; and

(b) cause the accounts of the Authority to be published in such manner as may be prescribed.

30. *Surcharge.*—(1) The Managing Director or any other member, officer or employee of the Authority shall be liable to surcharge for the loss, waste or mis-application of any money or property of the Authority if such loss, waste, or mis-application is a direct consequence of his neglect or misconduct while acting as such Managing Director or other member or officer or employee.

(2) Procedure of surcharge under sub-section (1) shall be such as may be prescribed.

(3) Any amount found due from any person as surcharge under sub-section (1) as a result of proceedings for surcharge shall be recoverable as arrears of land revenue.

(4) Nothing in sub-section (3) shall prevent the Authority from deducting any amount referred to therein from any sum payable by the Authority on account of remuneration or otherwise to such Managing Director or other member, officer or employee.

CHAPTER V

TAXES, FEES AND CHARGES

31. *Payment of contribution by local bodies.*—The local bodies who are beneficiaries of the water supply, sewerage and other services rendered by the Authority shall pay to the Authority annually, such sums not exceeding the amount of water tax and drainage tax or sewerage tax, as the case may be, due to such local bodies as part of house or property tax levied by them under the Acts constituting such local bodies, in such manner and at such times as may be prescribed.

32. *Cost of water.*—(1) The Authority shall, by notification in the Gazette, fix the cost of water to be supplied by it according to volume and also the minimum cost to be charged in respect of each connection.

(2) The Authority may, in lieu of charging the cost of water according to volume, accept a fixed sum for a specified period on the basis of expected consumption of water during that period.

33. *Cost of collection and disposal of waste water.*—(1) The Authority shall, by notification in the Gazette, fix the cost of collection and disposal of waste water according to its volume (which shall be such percentage of the volume of total water supplied to the consumer as may be prescribed) and also the minimum cost to be charged in respect of such collection and disposal.

(2) The Authority may, in lieu of charging the cost of collection and disposal of waste water according to the basis referred to in sub-section (1) accept a fixed sum for a specified period on the basis of expected collection and disposal of wasto water during that period.

34. *Meter rent.*—The Authority may provide water meters and charge such rent for the meter as may be provided in the regulations.

35. *Security deposit.*—The Authority may demand such sum as security from any consumer in connection with the supply of meter or for sewer connection as provided in the regulations.

Provided that the Authority shall pay interest at such rates as the Government may from time to time determine on any sum so deposited with the Authority.

36. *Fees.*—The Authority may charge such fees for connection, disconnection and re-connection of any water supply or sewer for testing or supervision or for any other service rendered or work executed or supervised as may be provided in the regulations.

37. *Recovery of taxes, fees and other sums due.*—(1) Any sum due to the Authority on account of any tax, fee, cost of water, cost of collection and disposal of waste water, meter rent, penalty, damage or surcharge under this Ordinance shall be recoverable as arrears of land revenue.

(2) Nothing in sub-section (1) shall affect the power of the Authority to cut off in accordance with the regulations the connection of water supply in the event of non-payment by the consumer of any dues referred to in that sub-section.

Chapter VI

WATER SUPPLY

38. *Definition of supply of water for domestic purposes.*—The supply of water for domestic purposes under this Ordinance means supply of water for any purpose except the following, namely:—

(a) for any commerce or trade, manufacture or business;

(b) for gardens or for purposes of irrigation;

Explanation.—In respect of premises used solely for residential purposes and having attached kitchen and domestic gardens, such domestic gardens shall not be treated as gardens for the purpose of this clause.

(c) for building purposes;

(d) for fountains, swimming bath, public bath, or tanks or for any ornamental or mechanical purposes;

(e) for animals where they are kept for sale or hire or for the sale of their produce or any preparation therefrom;

(f) for the consumption and use at restaurants, or by inmates of hotels, boarding houses, lodging-cum-boarding houses or residential clubs and for baths used by such inmates;

(g) for the consumption and use by persons resorting to theatres and cinemas;

(h) for making or watering streets;

(i) for washing vehicles where they are kept for sale or hire.

39. *Supply of water by the Authority.*—(1) The Authority shall on an application made in that behalf by the owner or occupier of any premises, grant supply of water for domestic purposes for—

(a) any premises situated within a distance of thirty metres from an existing main; or

(b) any premises situated beyond a distance of thirty metres from an existing main, if the applicant undertakes to bear the cost of extension beyond the distance of thirty metres.

(2) In cases falling under clause (b) of sub-section (1), the Authority shall bear the cost of extension only in respect of so much distance, not exceeding thirty metres as is sufficient to connect the nearest existing main with the outer limit of the premises.

(3) Notwithstanding the fact that the cost of any extension has been borne under clause (b) of sub-section (1) by the person to whom water is supplied, the property therein shall vest in the Authority.

(4) The Authority may on application made in that behalf, grant supply of water for any purpose other than domestic purposes.

(5) The supply of water for domestic or other purposes shall be subject to such terms and conditions as may be provided by regulations.

(6) Notwithstanding anything to the contrary contained in the regulations referred to in sub-section (5), the Authority may supply water to the Government or any local authority or other statutory corporation or to any educational institution on such terms as to payment and as to the period and conditions of supply as may be agreed upon.

40. *Water supply for domestic purposes not to be used for non-domestic purpose.*—No person shall, except in such circumstances or subject to such conditions as may be provided by the regulations, use or allow to be used water supplied for domestic purposes for any other purpose.

41. *Provision of fire hydrants.*—(1) The Authority may, at the request and expense of the owner or occupier of any factory or any shop or commercial establishment provide and maintain fire hydrants, together with all incidental work for the supply of water in case of fire in such factory, shop or commercial establishment and in any such case charge from such owner or occupier the cost of water supplied in connection therewith.

(2) The Authority shall provide and maintain fire hydrants together with all incidental works for the supply of water in case of fire at such other places as may be considered necessary by a joint committee of the officers of the Authority and the Fire Services Department of the Government and supply water in connection therewith.

42. *Provision of water meters.*—(1) The Authority may provide a water meter and attach the same to the service pipe in premises connected with the water works of the Authority.

(2) The expenses of installation and the rent for the use of water meter referred to in sub-section (1) shall be paid by the consumer.

(3) The provision of water meters and the transfer of connection thereto, the use, maintenance and testing of such meters and the expense of installation thereof and their rents and the furnishing of security, if any, in connection therewith shall be regulated by regulations.

43. *Licensed plumbers.*—(1) No person other than a licensed plumber of the Authority or person duly authorised by it shall execute any work in respect of a water connection not being a work of a trivial nature and no person shall permit any such work to be executed by a person other than a licensed plumber or by a person duly authorised by the Authority.

(2) When any work is executed in contravention of the provisions of sub-section (1), such work shall be liable to be dismantled at the discretion of the Authority.

44. *Prohibition of wastage of water.*—(1) No owner or occupier of any premises to which water is supplied by the Authority shall cause or suffer any water to be wasted or cause or suffer the service pipe or any tap or other fitting or work connected therewith to remain out of repair so as to cause wastage of water.

(2) Whenever the Authority has reason to believe that as a result of defect in a service pipe or tap or other fitting or work connected therewith water is being wasted, the Authority may, by written notice require the consumer to repair and make good the defect within such time as may be specified in the notice.

(3) If such repair is not carried out within the time specified, the Authority may without prejudice to any action against the consumer under any other provision of this Ordinance cause such repair to be made, and the cost of such repairs shall be realised from the consumer.

45. *Power to cut off water supply.*—(1) The Authority may cut off the water supply from any premises,—

(a) if any tax, fee, rental, cost of water or any charge or other sum due under this Ordinance, is not paid within a period of thirty days after service of a bill for the same; or

(b) if after the receipt of written notice from the Authority requiring him to refrain from so doing, the consumer continues to use the water or to permit the same to be used in contravention of the provisions of this Ordinance or any rule or regulations made thereunder; or

(c) if the consumer damages or causes to be damaged the water meter or any connection pipe or ferrule; or

(d) if the consumer refuses to admit any officer or servant of the Authority duly authorised in this behalf into the premises which he proposes to enter for the purpose of executing any work or placing or removing any apparatus or of making any examination or enquiry in connection with the water supply or prevents any such officer or servant from executing any work, or placing or removing any apparatus or making such examination or enquiry; or

(e) if the service pipe or any tap or other fitting or work connected therewith is found on examination by an officer or servant of the Authority duly authorised in that behalf to be out of repair, to such an extent as to cause wastage or contamination of water and immediate prevention thereof is necessary; or

(f) if the consumer causes or allows to be caused the service pipe or any tap or other fitting or work connected therewith to be placed, removed, repaired or otherwise interfered with, in contravention of the provisions of this Ordinance or of the rules or regulations made thereunder; or

(g) if by reason of leakage in the service pipe or any tap or other fitting or work, damage is caused to a public street and immediate prevention thereof is necessary.

(2) No action taken under or in pursuance of this section shall relieve a person from any penalty or liability which he may otherwise have incurred.

(3) The Authority may re-connect the supply of water disconnected under sub-section (1) on payment of such charges and on such terms and conditions as may be provided by regulations.

46. *Prohibition of certain acts.*—(1) No person shall—

(a) wilfully obstruct any person acting under the orders of the Authority in setting out the lines of any work or pull up or remove any

pillar, post or stay fixed in the ground for the purpose of setting out the lines of such works, or deface or destroy any works made for the same purpose; or

(b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other work or apparatus belonging to the Authority; or

(c) unlawfully obstruct the flow of or flush, draw off, or divert, or take water from, any water works belonging to the Authority or any water course by which any such water is supplied; or

(d) obstruct any officer or other employee of the Authority in the discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any water works; or

(e) bathe in, at or upon any water works, or wash or throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any water works or wash or clean therein any cloth, wool or leather or the skin of any animal, or cause water of any sink, or drain or any steam engine or boiler or any polluted water to turn or be brought into any water works or do any other act whereby the water in any water works is fouled or likely to be fouled.

(2) Nothing in clause (b) of sub-section (1) shall apply to a consumer closing the stopcock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

CHAPTER VII

SEWERAGE

47. *Right of owner or occupier to obtain sewer connection.*—The owner or occupier of any premises shall be entitled to empty sewage of the premises into a sewer of the Authority provided that before doing so he—

(a) obtains written permission of the Authority and pays connection fee in accordance with the regulations; and

(b) complies with such other conditions as may be provided by the regulations.

48. *Power to require owner to have sewer connection.*—Where any premises are, in the opinion of the Authority without sufficient means of effectual disposal of sewage and the sewer of the Authority is situated at a distance of not more than fifty metres from any part of the premises, the Authority may, by written notice, require the owner of the said premises to have sewer connection as provided by the regulations.

49. *Prohibition of connection with sewer.*—No person shall without the permission of the Authority make or cause to be made any connection or communication with any sewer of the Authority.

50. *Prohibition of construction of buildings, etc., over sewer.*—(1) No person shall without the permission of the Authority construct any private street, building, wall, fence or other structure on any sewer of the Authority.

(2) If any private street be constructed or any building, wall, fence or structure erected on any sewer as aforesaid without the written permission of the Authority, the Authority may remove or otherwise deal with the same as it thinks fit.

(3) The expenses incurred by the Authority in so doing shall be paid by the owner of the private street or of the building, fence, wall or other structure or as the case may be, by the person offending and shall be recoverable as an arrear of charges payable under this Ordinance.

51. *Power to affix shaft, etc., for ventilation of sewer or cess-pool.*—The Authority may for the purpose of ventilating any sewer or cess-pool, whether vested in the Authority or not, erect upon any premises or affix to the outside of any building or to any tree any shaft or pipes as may appear to it to be necessary.

52. *Power to examine and test sewer etc., believed to be defective.*—(1) Where it appears to the Authority that there are reasonable grounds for believing that a private sewer or cess-pool is in such condition as to be prejudicial to public health or to be a public nuisance or that a private sewer communicating directly or indirectly with a sewer of the Authority is so defective as to admit sub-soil water or grit or other material, it may examine its condition and for that purpose may apply any test, not being a test by water under pressure and if it deems necessary, open the ground.

(2) If on examination, the sewer or cess-pool is found to be in proper condition, the Authority shall, as soon as possible, re-instate any ground which has been opened by it.

(3) If, the sewer or cess-pool so examined is found to be defective, the Authority may forthwith stop its functioning or disconnect it from the sewer of the Authority, or require the owner or occupier to take remedial action as directed and within such time as may be specified by the Authority and in any such event the Authority may recover the cost incurred by it from the owner or occupier, as the case may be.

CHAPTER VIII

GENERAL PROVISIONS

53. *Power of entry, survey, inspection, etc.*—(1) Any officer of the Authority authorised by it in that behalf may with or without assistance of workmen enter into or upon any premises in order—

(a) to make any inspection, survey, measurement or enquiry;

(b) to take level;

(c) to dig or bore into the sub-soil;

(d) to set out boundaries and intended lines of work;

(e) to mark such levels, boundaries and lines by placing marks and cutting trenches; or

(f) to do any other thing necessary for the purpose of this Ordinance or any rule or regulation made thereunder:

Provided that—

(i) no such entry into a building shall be made between sunset and sunrise;

(ii) no dwelling house or place shall be so entered except with the consent of the occupier thereof or without giving the occupier at least twenty-four hours' notice of the intention to make such entry;

(iii) reasonable opportunity and facility shall be allowed to the women occupying any part of a dwelling house to withdraw; and

(iv) due regard shall, so far as feasible, be paid to the social and religious customs and usages of the occupants of the premises entered into.

(2) Whenever any officer of the Authority authorised under sub-section (1) enters into or upon any premises in pursuance of that sub-section, he shall, at the time of such entry pay or tender payment for the damage, if any, to be caused by any act as aforesaid and in case of dispute as to the sufficiency of the amount of compensation, such dispute shall be referred to the Chairman whose decision thereon shall be final.

(3) When any person is entitled to enter into or open any premises in exercise of the powers under sub-section (1) he may also enter in similar manner into or upon any adjoining premises for any work authorised by or under this Ordinance, or for the purpose of depositing therein any soil stone or other materials or for obtaining access to such work or for any other purposes connected with the execution of the same.

(4) It shall be lawful for any officer authorised in this behalf by the Authority to make any entry into any place to open or cause to be opened any door, gate or other barrier,—

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

(5) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier under sub-section (4), the person authorised in this behalf shall call upon two or more persons of the locality in which the place to be entered into is situated to witness the entry or opening and may issue an order in writing to them or any of them so to do.

(6) The officer so authorised shall in exercise of any power conferred by sub-section (4) do as little damage as may be possible and compensation for such damage shall be payable by the Authority to the owner or occupier of such premises or to both and in the case of any dispute as to the sufficiency of the amount of compensation, the dispute shall be referred to the Chairman, whose decision thereon shall be final.

54. *Power to disinfect tanks, pools, wells.*—(1) Any officer authorised by the Authority in that behalf may have any tank, pool or well cleaned or disinfected after notice to the owner or occupier, if any, when it appears that such cleaning or disinfection is necessary to prevent or check the spread of any dangerous disease.

(2) The cost of cleaning or disinfection referred to in sub-section (1) shall be recoverable from the owner or occupier of such tanks, pool or well.

55. *Directions by the Government.*—(1) In the discharge of its functions, the Authority shall be guided by such directions on questions of policy as may be given to it by the Government.

(2) If any question arises as to whether any matter is or is not a matter in respect of which the Government may issue a direction under sub-section (1), the decision of the Government thereon shall be final.

56. *Annual reports, statistics and returns.*—The Authority shall, after the end of each financial year, prepare and submit to the Government before such date and in such form as the Government may direct a report giving an account of its activities during the previous financial year and the report shall also give an account of the activities, if any, which are likely

to be undertaken by the Authority in the next financial year and the Government shall cause every such report to be laid before the State Legislature as soon as possible after it is received by the Government.

(2) The Authority shall furnish to the Government at such times and in such form and manner as the Government may direct such statistics and returns and such particulars in regard to any proposed or existing schemes or activities of the Authority or any other matter under the control of the Authority as the Government may, from time to time, require.

57. *Duty of local bodies to assist.*—(1) All local bodies shall render such help and assistance and furnish such information to the Authority and shall make available for inspection and examination such records, maps, plans and other documents as it may require to discharge its functions under this Ordinance.

(2) Without prejudice to the other provisions of this Ordinance and notwithstanding anything contained in any other law for the time being in force under which any local body is constituted, the Government may give to any local body such directions as in its opinion may be necessary or expedient for enabling the Authority to perform its functions under this Ordinance and thereupon it shall be the duty of the local body to comply with such directions.

58. *Protection of acts done in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government, the Authority or the Chairman, the Managing Director or other member of the Authority or any officer or servant of the Government or of the Authority for anything which is in good faith done or purported or intended to be done in pursuance of this Ordinance or any rule or regulation made thereunder.

59. *Members, officers and servants of the Authority to be public servants.*—The Chairman, Managing Director, members, officers and servants of the Authority shall be deemed when acting or purporting to act in pursuance of the provisions of this Ordinance or any rule or regulation made thereunder to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Prevention of Corruption Act, 1947 (Central Act 2 of 1947).

CHAPTER IX

PENALTIES AND PROCEDURE

60. *General penalty.*—Whoever, in any case in which a penalty is not expressly provided by this Ordinance or any rule or regulations made thereunder, contravenes the provisions of this Ordinance or of any rule

or regulation made thereunder or fails to comply with any notice, order or requisition issued under this Ordinance or any rule or regulation made thereunder shall be punishable with fine which may extend to one thousand rupees and in the case of a continuing failure or contravention, with an additional fine which may extend to twenty-five rupees for every day on which such contravention or failure continues after the first conviction.

61. *Offences by companies.*—(1) If the person committing any offence under this Ordinance is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all the diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) 'company' means any body corporate and includes a firm or other association of individuals; and

(b) 'director', in relation to a firm, means partner in the firm.

62. *Power to arrest person refusing to give his name and address.*—(1) Where any person in the presence of any officer of the Authority authorised by it by general or special order in that behalf has committed or has been accused of committing or who is reasonably suspected by such officer of committing any offence punishable under this Ordinance refuses or fails on demand by such officer to give his name and address or gives a name or address which such officer has reason to believe to be false he may be arrested by such officer without a warrant, in order that his name or address or both may be ascertained.

(2) The provisions of sub-sections (2) and (3) of section 42 and of sections 43, 48, 56, 57, 58 and 59 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall *mutatis mutandis* apply in relation to any arrest made under sub-section (1) as they apply to an arrest made under sub-section (1) of section 42 thereof.

63. *Composition of offences.*—(1) The Managing Director or any other officer of the Authority authorised by it by general or special order in that behalf may either before or after institution of the proceedings, compound any offence punishable under this Ordinance on such terms including payment of such composition fee as he may think fit.

(2) Where an offence has been compounded, the offender, if in custody shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

64. *Duties of police officers and employees of local bodies.*—It shall be the duty of all police officers and of employees of the local body within whose local area any offence punishable under this Ordinance is committed or attempted to be committed to give immediate information to the Authority or to any officer of the Authority authorised in that behalf, of the commission of, or of the attempt to commit such offence, as the case may be and to assist the officers of the Authority in the exercise of their authority under this Ordinance.

CHAPTER X

RULES, REGULATIONS AND BYE-LAWS

65. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances and other conditions of service of officers and employees of the Authority other than such officers and employees employed on contract basis;

(b) the manner of operation of funds by the Authority under sub-section (4) of section 22;

(c) the manner of making provision for Depreciation Reserve and for its utilisation;

(d) the powers of the Auditor under sub-section (2) of section 29;

(e) the manner in which the accounts of the Authority shall be published;

(f) the procedure in respect of surcharge under section 30 including the provision of appeal, if any, in respect thereof;

(g) the extent of contributions and manner of making such contributions by local bodies under section 31;

(h) any other matter which is to be or may be prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

66 *Regulations.*—(1) The Authority may, with the previous approval of the Government make regulations not inconsistent with this Ordinance and the rules made thereunder, for the administration of the affairs of the Authority.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of persons necessary to form a quorum thereat;

(b) the powers and duties of the employees of the Authority;

(c) the management of property of the Authority;

(d) the execution of contracts and assurance of property on behalf of the Authority;

(e) the limits upto which the Managing Director shall be competent to incur recurring or non-recurring expenditure in any financial year without such expenditure being included in the statement under sub-section (1) of section 28;

(f) the maintenance of accounts and the preparation of annual statement of accounts and balance sheet by the Authority;

(g) the procedure for carrying out the functions of the Authority;

(h) the terms and conditions for supply of water for domestic or other purposes;

(i) the installation of meters or transfer of their connection and their use, maintenance, testing, disconnection and reconnection, the fees, the rent and other charges in respect thereof including the furnishing of security by the consumer and matters connected therewith;

(j) the fee to be paid for connection with a sewer of the Authority and other terms and conditions for such connections;

(k) any other matter for which provision is to be or may be made in regulations.

Chapter XI

TRANSITORY PROVISIONS AND REPEAL

67. *Transitory provisions.*—(1) Any bye-laws by whatever name called made by the local bodies in relation to the provision of water supply and sewerage services under the Acts constituting such local bodies before the date of constitution of the Authority and in force immediately before the said date shall continue in force to the extent they are not inconsistent with the provisions of this Ordinance, until such time as regulations are framed by the Authority under section 66.

(2) Any water charge, fee or other item of receipt by whatever name called levied by a local body or by the officers of the Public Health Engineering Department before the date of constitution of the Authority and any notification, notice, order or direction in relation to such levy or to the provision of water supply and sewerage services issued immediately before the said date including any assessment of such levy or order for exemption or connection, disconnection or re-connection made or granted or any penalty imposed in respect of the owner or occupier of any premises or any licence issued to a plumber or any order made in connection therewith under any provision of law applicable to the local body having jurisdiction over such area and in force immediately before the said date shall continue in force until other provision or order is made or other proceedings or action taken under this Ordinance by the Authority for levy or assessment or for grant of such licence or connection or provision of such services and any reference in such notification, notice, order, direction, bye-laws or licence to the local body shall be construed as a reference to the Authority and in particular, proceeds of such charges or levy or other items of receipt shall go into the Fund of the Authority:

Provided that in respect of local bodies, this section shall have effect from the date referred to in sub-section (1) of section 18.

68. *Exclusion of powers of local bodies under certain enactments*:–Except as provided in section 67, on and from the day on which the Authority is constituted,

and in respect of local bodies, on and from the date referred to in sub-section (1) of section 18,—

(a) any city constituted under the Kerala Municipal Corporations Act, 1961 (30 of 1961);

(b) any municipality constituted under the Kerala Municipalities Act, 1960 (14 of 1961);

(c) Guruvayur Township constituted under the Guruvayur Township Act, 1961 (43 of 1961);

(d) any panchayat constituted under the Kerala Panchayats Act, 1960 (32 of 1960)

shall have the powers, duties and functions under the said enactments as if the powers, duties and functions assigned by this Ordinance to the Authority including the power to hold any property for purposes of the said duties and functions were excluded from the powers, duties and functions of the corporation, the municipal council, the township committee or the panchayat, as the case may be.

69. *Amendment of Act 15 of 1971.*—With effect from the date on which this Ordinance comes into force either in part or in full, the Kerala State Rural Development Board Act, 1971 (15 of 1971), shall have effect subject to the following amendments, namely:—

(i) in section 7, in sub-section (1), the brackets, letters and words "(a) water supply schemes" and "(b) sewerage schemes" shall be omitted; and

(ii) in section 8, in the Explanation, the words "the Public Health Engineering Department shall be the Engineering Department of the Government in respect of water supply and sewerage schemes and" shall be omitted.

70. *Removal of difficulties.*—(1) The Government may, for the purpose of removing any difficulty, particularly in relation to the transition form the provisions of the enactments referred to in section 68 to the provisions of this Ordinance by order, direct that the said enactments shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission not affecting the substance, as it may deem to be necessary or expedient.

(2) Every order made under sub-section (1) shall be laid before the State Legislature.

71. *Repeal and saving.*—(1) The Kerala Water and Waste Water Ordinance, 1984 (102 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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Government of Kerala
1985

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KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 6073/Leg.B1/85/Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

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ORDINANCE No. 31 OF 1985

THE KERALA COMMAND AREAS DEVELOPMENT ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to provide for the development of areas benefited by irrigation projects in the State of Kerala.

Preamble.—WHEREAS it is expedient to make provision for comprehensive and systematic development of the areas in which lands benefited by irrigation projects are situated and for matters incidental thereto;

AND WHEREAS the Kerala Command Areas Development Ordinance, 1985 (1 of 1985) was promulgated by the Governor of Kerala on the 11th day of January, 1985 for the above purposes;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Kerala Command Areas Development Ordinance, 1985.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 11th day of January, 1985.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(1) "Authority" means a Command Area Development Authority constituted under section 3;

(2) "agricultural labourer" means a person who does not hold any land whether as owner or tenant or mortgagee with possession and whose principal means of livelihood is manual labour on land;

(3) "command area", in relation to one or more irrigation project or projects means such area as may be notified by the Government, comprising, among other lands, lands benefited by such irrigation project or projects;

(4) "comprehensive development", in relation to a command area, includes,—

(a) bringing the land records up-to-date for land survey and mapping with aerial photographs;

(b) conservation of land and water;

(c) construction of field channels with related structures;

(d) construction of field drains with related structures;

(e) land shaping, including grading, levelling, bunding and the like;

(f) realignment of field boundaries and rectangularisation of plots under a pipe-outlet or under an adjacent pipe-outlet for efficient farm management;

(g) lining of field channels with suitable material to prevent seepage of water;

(h) construction and upgrading of ayacut roads with related structures;

(i) grouping of small holdings in a continuous area nearer the outlet and larger ones farther away;

(j) other ancillary measures to avoid wastage of water and prevent water-logging, salinity, alkalinity and the like;

(k) conjunctive use of surface and ground water for multiple cropping and proper utilisation of available water resources;

(l) allround development on the farm in the areas pertaining to agriculture, horticulture, sericulture, farm forestry, animal husbandry, fisheries, communication, agrobased industry and co-operation;

(5) "credit agency" means,—

(i) a banking company as defined in the Banking Regulations Act, 1949 (Central Act 10 of 1949);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970) or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);

(v) a Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976);

(vi) the National Bank for Agriculture and Rural Development established under the National Bank for Agricultural and Rural Development Act, 1981 (Central Act 61 of 1981);

(vii) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956);

(viii) a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969); and

(ix) any other financial institution notified by the Government as a credit agency for the purposes of this Act;

(6) "distribution system" includes,—

(a) all main canals, branch canals, distributories, sub-distributories and channels between head works and field channels constructed for the supply and distribution of water for irrigation;

(b) all works, structures and appliances connected with the distribution of water for irrigation;

(c) all field channels and farm channels and related structures under a pipe-outlet;

(7) "drainage system" includes,—

(a) channels either natural or artificial for the discharge of wast or surplus water and all works connected therewith or ancillary thereto;

(b) all connecting drains and main drains to drain off surplus water;

(c) all field drains and related structures under a pipe-outlet;

(8) "farm channel" means a small channel formed within a holding to spread the water evenly to ensure effective water use;

(9) "field channel" means a regulated water-course having a capacity to irrigate lands not ordinarily exceeding forty hectares constructed by the Government and maintained by the beneficiaries or by any other agency on their behalf to receive supply of water from a pipe out-let;

(10) "field drain" means a channel excavated and maintained by the landholder or by any other agency on his behalf to discharge waste or surplus water from the landholding under a pipe-outlet;

(11) "ineligible person" means a person not eligible for ordinary land development loans and belonging to any of the following categories, namely:—

(i) minors without guardians;

(ii) farmers occupying Government lands which have not been assigned to them or Government lands assigned but which shall revert to Government in case the assignee mortgages the same;

(iii) farmers occupying lands alienated by women prior to the coming into force of the Hindu Succession Act, 1956 (Central Act 30 of 1956);

(iv) persons holding lands exceeding the ceiling area under the Kerala Land Reforms Act, 1963 (1 of 1964);

(v) landholders unable to get loan from any credit agency because of overdues which are to be cleared before obtaining any loan for further capital investment; and

(vi) farmers who are unwilling to apply for land development loans;

(12) "irrigation system under a pipe-outlet" includes the field channels, field drains and farm channels with all the related structures thereto;

(13) "land-holder" means a person in actual possession of the land whether as an owner or as a tenant or sub-tenant or as a mortgagee in possession or as a licensee or otherwise and includes a person who is likely to be benefited by any development work under this Act and the expression "land-holding" shall be construed as land held by a landholder;

(14) "member" means member of an Authority;

(15) "pipe-outlet" means an opening or contrivance constructed by the State Government in an irrigation system through which water is delivered at the periphery of a block of land the extent of which ordinarily does not exceed forty hectares;

(16) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in the Constitution of India;

CHAPTER II

Establishment and Constitution of Authorities

3. *Constitution of Authority.*—(1) As soon as may be after the commencement of this Ordinance, the Government may, by notification in the Gazette, constitute an Authority for the development of each command area.

(2) The Authority shall be a body corporate by the name "Command Area Development Authority of........" having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

4. *Composition of the Authority.*—(1) The Authority shall consist of the following members, namely:—

(a) ten farmers, of whom one shall be a member of a Scheduled Caste or a Scheduled Tribe to be nominated by the Government;

(b) representatives of credit agencies, one from each of the Revenue Districts in which the command area lies, to be nominated by the Government;

(c) the Director of Agriculture;

(d) the Chief Engineer of each of the concerned irrigation projects or where there is no Chief Engineer for the project, Superintending Engineer in charge of each of the concerned irrigation projects;

(e) the Registrar of Co-operative Societies;

(f) a representative of the Kerala Agricultural University to be nominated by the Government;

(g) the Secretary to Government, Finance Department;

(h) the Collectors of the Revenue Districts in which the command area lies;

(i) the Director of Economics and Statistics;

(j) the Executive Director, Centre for Water Resources Development and Management, Calicut;

(k) the Chief Hydrogeologist;

(l) the Secretary in charge of Command Area Development;

(m) the Water Management Specialist.

(2) The Secretary in charge of the Command Area Development shall be the Chairman and the Water Management Specialist shall be the Secretary of the Authority.

5. *Disqualification for membership of Authority.*—(1) A person shall be disqualified for being nominated as, and for being, a member—

(a) if he has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; or

(b) if he is of unsound mind and is so declared by a competent court; or

(c) if he is an undischarged insolvent; or

(d) if he has been removed or dismissed from the service of the Central Government or the Government of Kerala or a corporation owned or controlled by the Central Government or the Government of Kerala or from the membership of the Authority; or

(e) if he has directly or indirectly, by himself or by his partner, any share or interest in any work done by the order of the Authority or in any contract or employment with or under or by or on behalf of the Authority; or

(f) if he is employed as a legal practitioner on behalf of the Authority or accepts employment as legal practitioner against the Authority.

(2) A person shall not be disqualified under clause (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clause, by reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Authority is inserted.

6. *Terms of office and conditions of service.*—(1) Notwithstanding anything contained in section 7, the nominated members shall hold office during the pleasure of the Government and their conditions of service shall be such as may be prescribed by rules.

(2) Subject to the provisions of sub-section (1), the nominated members shall hold office for three years from the date of nomination, but they shall be eligible for re-nomination.

(3) Any nominated member may at any time resign his office by a letter of resignation addressed to the Government:

Provided that the resignation shall not take effect until it is accepted.

7. *Removal of member.*—(1) The Government may remove a nominated member, if he,—

(a) becomes subject to any of the disqualifications specified in section 5; or

(b) refuses to act or becomes incapable of acting; or

(c) without obtaining leave of absence from the Authority, absents from three consecutive meetings of the Authority; or

(d) in the opinion of the Government, has so abused his position as to render his continuance as member detrimental to the interest of the Authority.

(2) No order of removal of a nominated member under sub-section (1) shall be made unless such member has been given an opportunity of making representation against his removal.

8. *Casual vacancies.*—(1) Any casual vacancy caused by resignation of a member or by any other reason may be filled by the Government by nomination and the person so nominated shall hold office for the remaining period for which the member in whose place he is nominated would have held office.

(2) No act or proceeding of the Authority shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of, the Authority or any irregularity in the procedure of the Authority not affecting the merits of the case.

9. *Meetings of Authority.*—(1) The Authority shall meet at least once in three months ordinarily at the office of the Authority or at such other place as the Chairman may decide and shall, subject to the provisions of sub-sections (2),(3) and (4), observe such procedure in regard to the transaction of business at its meetings as may be prescribed by regulations.

(2) The Chairman or in his absence any member chosen by the members present from among themselves shall preside at a meeting of the Authority.

(3) If any member, being the representative of the Kerala Agricultural University, or an officer of the Government (other than the Chairman of the Authority), is unable to attend any meeting of the Authority, he may under intimation to the Chairman authorise his immediate subordinate officer in writing to attend the meeting.

(4) All questions at a meeting of the Authority shall be decided by a majority of the votes of the members present and voting and, in the case of an equality of votes, the Chairman or, in his absence, the member presiding shall have a second or casting vote.

(5) The quorum for a meeting of the Authority shall be five.

(6) The Authority may associate with itself, in such manner and for such purposes as may be prescribed by regulations, any person whose assistance or advice it may desire in the performance of any of its functions under the Ordinance, and the persons so associated shall have the right to take part in the meetings of the Authority relating to that purpose but shall not be entitled to vote.

CHAPTER III

Functions of Authority

10. *Functions of Authority.*—The authority shall have the following functions, namely:—

(a) formulation and implementation of schemes for the comprehensive development of the command area;

(b) prevention of land erosion and water-logging;

(c) improvement of soil fertility and regulation of cropping pattern;

(d) ensuring the efficient maintenance of field channels and field drains by the farmers within the command area;

(e) localisation and delocalisation of lands for various crops;

(f) ensuring supplies of all inputs and services;

(g) promotion and setting up of rural growth centres for integrated development of the command area;

(h) development of marketing, processing and storage facilities and adequate communication system;

(i) arranging for credit facilities to the farmers and artisans;

(j) organising agricultural co-operatives and associations;

(k) construction of field channels and connected drains;

(l) ensuring the formation of farm channels and drains and also necessary land development works within individual holdings;

(m) borrowing and lending money necessary for the due discharge of its functions;

(n) conjunctive use of surface and ground water;

(o) setting up agricultural demonstration farms and promoting extension activities;

(p) ensuring that the beneficiaries form users' associations and attend to equitable water distribution in each unit referred to in section 34;

(q) acquisition, possession or disposal of property, both movable and immovable, for the development of the command area; and

(r) such other functions, not inconsistent with the provisions of this Ordinance, as may be prescribed by rules.

CHAPTER IV

Administrator and Other Officers

11. *Administrator and other officers.*—(1) The Government shall, by notification in the Gazette, appoint the following officers to assist the Authority in the discharge of its functions under this Ordinance, namely:—

(a) an officer of the State Government, of or above the grade of Joint Secretary to Government or Additional Director of Agriculture or Additional Registrar of Co-operative Societies or Superintending Engineer in the Public Works Department, as the Administrator of the Authority who shall, subject to the general superintendence and control of the Authority, be the Chief Executive Officer of the Authority and shall exercise and discharge such powers and duties as may be prescribed by rules or delegated to him by the Authority;

(b) an officer of the Agriculture Department, not below the rank of Joint Director of Agriculture, as the Development Officer (Agriculture);

(c) an officer of the Public Works Department, not below the rank of a Superintending Engineer, as the Development Officer (Engineering);

(d) an officer of the Co-operative Department, not below the rank of Joint Registrar of Co-operative Societies, as the Development Officer (Co-operation);

(e) an officer of the Soil Conservation Unit of the Agriculture Department, not below the rank of the Joint Director, as the Development Officer (Soil Conservation);

(f) an officer of the Finance Department, not below the rank of Deputy Secretary, as the Chief Accounts Officer;

(g) an officer of the Department of Economics and Statistics, not below the rank of Deputy Director, as the Evaluation Officer; and

(h) the Water Management Specialist of the Authority concerned.

(2) The Development Officers, the Chief Accounts Officer and the Evaluation Officer shall be subordinate to the Administrator and shall exercise such powers and discharge such duties as may be assigned to them by the Administrator.

(3) Subject to such rules as may be prescribed, the Authority may appoint such other officers and employees as it may deem necessary for the efficient discharge of its functions.

(4) The terms and conditions of service of the officers specified in sub-section (1) and the officers and employees appointed under sub-section (3) shall be such as may be prescribed by rules.

CHAPTER V

Schemes

12. *Preparation of scheme.*—(1) Every Authority shall prepare a scheme for the comprehensive development of the command area or any phase thereof in such manner as may be prescribed by rules.

(2) Any scheme prepared under sub-section (1) shall, set out the following matters, namely:—

(a) area proposed to be covered under the scheme;

(b) the work or works to be executed;

(c) the phasing of the scheme, both area-wise and work-wise;

(d) the sketch plan of the area proposed to be covered under the scheme;

(e) the reallocation or the realignment, if any, of a pipe outlet or the existing irrigation system;

(f) the survey numbers covered;

(g) field boundaries as existing and as proposed;

(h) the compensation to be given to or recovered from the land-holders;

(i) the cost involved in the scheme as well as in each phase thereof;

(j) the charges or dues to be levied on the beneficiaries; and

(k) such other matters and particulars as may be prescribed by rules.

(3) The authority may also, from time to time, make and take up any new or additional schemes in the command area.

(4) The scheme shall provide for the payment of compensation to any affected land-holder for the reduction in the extent of his holding consequent on the implementation of the scheme and for recovery of compensation from any other land-holder who is benefited in getting more extent of land under the scheme.

(5) The amount of compensation payable under sub-section (4) shall be determined in accordance with the provisions of the law relating to land acquisition for the time being in force:

Provided that nothing in this sub-section shall preclude the determination of the amount of compensation by agreement with the benefited or affected land-holder and thereupon the amount so determined shall be the amount to be recovered from or to be paid to such benefited or affected land-holder, as the case may be.

13. *Publication of scheme.*—(1) When a scheme has been prepared under section 12, the Authority shall publish the same in the Gazette along with a notice inviting objections and suggestions, if any, to the scheme from all persons likely to be affected thereby before the date specified in the notice.

(2) The notice and the scheme shall also be published in the Village Offices, Panchayat Offices, Municipal Offices, Tāluk Offices, the Offices of the District Collectors of the Districts in which the lands proposed to be included in the scheme are situated and the Office of the Authority.

14. *Sanction of scheme.*—(1) The Authority shall, after considering the objections, if any, received in pursuance of the notice under section 13 and after making such modifications as it deems necessary, sanction the scheme.

(2) The scheme as sanctioned under sub-section (1) shall be published in the Gazette and in the Offices mentioned in sub-section (2) of section 13.

15. *Consequences of sanction of scheme.*—Upon the sanction of the scheme or any phase thereof by the Authority under section 14 (hereinafter called as "the approved scheme") the following consequences shall ensue, namely:—

(1) the Authority may require any department of the Government or any statutory or corporate body controlled by the Government, functioning within the area of operation of the approved scheme, to follow such directions in respect of such matters as are specified in the approved scheme;

(2) all development plans relating to land development drawn by any department of the Government or any local or statutory authority or body or any corporation controlled by the Government shall be intimated to the Authority and shall be executed with its approval and subject to such modifications or changes, if any, as the Authority may suggest and also subject to such directions as the Authority may give;

(3) the Authority shall be deemed to be empowered to take all necessary action for the implementation of the approved scheme including levy of cost of works and other charges and to give directions to land-holders with regard to the following matters, namely:—

(a) the formation of farm channels and drains and also necessary land development works within individual holdings;

(b) the crops which are to be raised and the rotation of such crops;

(c) provision for drainage in the farm;

(d) distance of wells, tube-wells, pumps and other sources of irrigation from the distribution system;

(e) erection and removal of fences over lands;

(f) submission of returns within such time and in such manner as may be prescribed by regulations, containing a true and accurate statement regarding the following matters, namely:—

(i) the area of land cultivated by the land-holder, the classification of such land, his interest therein and encumbrances on such land, if any;

(ii) the nature and quantity of agricultural produces raised by him;

(g) such other matters as may be prescribed by regulations.

16. *Execution of scheme.*—(1) Upon the sanction of the scheme, the Authority may execute the scheme through such agency as it deems fit:

Provided that in the case of the works mentioned in sub-clause (a) of clause (3) of section 15 and specified in the scheme, the Authority may require the land-holder to intimate it within one month of the publication of the scheme under section 14 whether he desires to carry out the work according to the approved scheme by himself and, if so, his agreement to complete the work within the time fixed by the Authority, and any land-holder who carries out such works shall also be liable to pay proportionate cost of survey, supervision and any other amount as may be determined by the Authority.

(2) When the land-holder does not desire to carry out or fails to carry out the works referred to in the proviso to sub-section (1), the Authority shall carry out or get carried out such works and—

(a) such works so carried out shall be deemed to have been done with the consent of the land-holder for whose benefit they are intended;

(b) subject to such rules as may be made in this behalf the proportionate cost of work including survey and supervision and any other amount as may be certified by the Authority shall be a charge on the land on which the works have been carried out, and the provisions of sub-section (3) of section 20 shall *mutatis mutandis*, apply for recovery thereof.

(3) In order to provide for physical planning, the Development Officers referred to in section 11 shall have the power to effect realignment of field boundaries and in the process, to alter the area of the land held by the land-holders in the command area or any other adjoining area.

(4) The realignment and changes in the land holdings made in pursuance of the powers conferred by sub-section (3) shall, subject to the payment or recovery of compensation, as the case may be, contemplated in sub-section (4) of section 12, have effect notwithstanding anything inconsistent therewith contained in any other enactment and shall be duly mutated in the record of rights.

(5) Where the holder of any land included in the scheme intimates the Authority under the proviso to sub-section (1) that he does not desire to carry out the work by himself or does not intimate the Authority that he desires to carry out the work by himself within the period specified in the proviso to sub-section (1), such holder shall deposit with the Authority the amount required for the works mentioned in sub-clause (a) of clause (3) of section 15 as determined by the Authority, and the Authority shall carry out the works under the scheme by itself or through an agency decided by the Authority.

CHAPTER VI

Localisation of Command Areas and Regulation on Cropping Pattern

17. *Power to specify principles of localisation.*—(1) The Government may, having regard to the resources of land and water, nature of soil, climate and other technical considerations, by order, specify for each command area, the principles of localisation for the purpose of irrigation.

(2) The Government may, having regard to the advancement in technology of land and water management and other agronomic practices, by order, alter, from time to time, the principles of localisation so specified for any command area.

18. *Classification of lands for raising different crops according to availability of water.*—(1) Subject to such directions as may be issued from time to time by the Government, the Authority or any officer authorised by the Authority may, in any year, having regard to the quantity of water available in any irrigation system within its jurisdiction, by order, classify, within such time and in such manner as may be prescribed by rules, lands included in the irrigation system under a pipe-outlet for the purpose of raising such kind of crops under such pipe-outlet as may be specified in the order to regulate the supply of water for irrigation.

(2) Whenever the Authority is satisfied that for the better cultivation of land and the optimum utilisation of water resources of an irrigation system under a pipe-outlet or for accelerated land development or for any other reasons it is expedient in public interest so to do, the Authority may, by notification in the Gazette, specify the cropping pattern, the period of sowing, the duration of crop and the kinds of crops that shall not be grown on any land under such irrigation system under a pipe-outlet.

(3) On publication of a notification under sub-section (2) no person shall grow or allow to grow any prohibited crop on any land under the irrigation system under a pipe-outlet and no person shall sow or plant or allow the sowing or planting of any other crop at any time other than during the period, or allow such crop to remain beyond the duration, specified in respect thereof in such notification.

19. *Stoppage of water supply.*—The supply of water to any land which is entitled to such supply under section 17 or section 18 shall not be stopped except—

(a) when and so long as it is necessary to stop such supply for the purpose of executing any work ordered by the Authority;

(b) whenever and so long as any field channel by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water thereof;

(c) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of land-holders entitled to water;

(d) whenever and so long as it may be necessary to do so in order to prevent the wastage or the misuse of water;

(e) within the periods fixed from time to time by the Authority, of which due notice shall be given; and

(f) whenever there is diminution in the supply of water in the irrigation work due to any natural or seasonal causes and so long as it is necessary to do so.

CHAPTER VII

Credit Facilities

20. *Credit facilities for ineligible persons for development of lands.*—(1) For taking up land development and other works mentioned in sub-clause (a) of clause (3) of section 15 in the lands in the possession of ineligible persons, the Authority may raise loans on their behalf from a credit agency on such terms and conditions as may be mutually agreed upon between the Authority and the credit agency concerned for the purpose of meeting the cost of carrying out such development as may be provided for in the scheme:

Provided that the loans so raised shall be deemed to have been raised with the consent of the ineligible persons concerned.

Explanation.—Subject to such rules as may be made in this behalf, the cost of land development for the purpose of this section includes such cost of survey, supervision and any other amount as may be determined by the Authority.

(2) Notwithstanding anything contained in any law for the time being in force, the loan referred to in sub-section (1) shall be a first charge on the lands in the possession of the ineligible persons concerned.

(3) The amount to be recovered from each ineligible person shall be the entire cost of work carried out in his land and the same shall be recovered with interest at such rate and in such number of annual instalments as may be fixed by the Authority and if not recovered in the usual course shall be recovered as arrears of public revenue due on land.

(4) The Authority shall be liable to repay the loan borrowed under sub-section (1) from the credit agency in accordance with the terms and conditions of repayment as agreed upon at the time of borrowing.

21. *Alterations of extent or boundaries of mortgaged land under the approved schemes for land development.*—Where on the implementation of the scheme for comprehensive land development, the extent or the boundaries of any mortgaged land gets altered such altered land shall alone form the substituted security for the loan.

CHAPTER VIII

Finance, Accounts and Audit

22. *Funds of Authority.*—(1) The Authority shall have and maintain a separate revolving fund to which shall be credited—

(*a*) all moneys received by the Authority from the Government by way of grants, loans, advances or otherwise;

(*b*) grant-in-aid and loans made available by the Central Government for developmental activities in the command area under the Central Sector Schemes;

(*c*) any other funds provided for taking up any of the various development activities for specified programmes;

(*d*) loans raised by the Authority from credit agencies; and

(*e*) all other funds received by the Authority from any other source.

(2) The fund shall be utilised for the purpose of this Ordinance in such manner as may be prescribed by rules.

23. *Budget of Authority.*—The Authority shall prepare in such form and at such time every year as may be prescribed by rules, a budget for the next financial year showing estimated receipts and expenditure of the Authority in respect of the administration of this Ordinance, and shall forward to the Government or such other authority as may be prescribed by rules, such number of copies thereof as may be so prescribed.

24. *Accounts and audit.*—(1) The Authority shall maintain true and proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be prescribed by rules.

(2) The accounts of the Authority shall be subject to audit annually by the Accountant General, Kerala and the accounts as certified by the Accountant General together with the audit report thereof shall be forwarded annually to the Government.

25. *Annual report.*— The Authority shall prepare for every year a report of its activities under this Ordinance during that year and submit

the report to the Government in such form and on or before such date as may be prescribed by rules, and the Government shall cause the same to be laid before the Legislative Assembly.

CHAPTER IX

Offences and Penalties

26. *Penalties.*—(1) Whoever, voluntarily or without proper authority,—

(a) damages, alters, enlarges, or obstructs any irrigation system under a pipe-outlet;

(b) interferes with, increases, or diminishes the water supply in, or the flow of water from, through, over or under any irrigation system under a pipe-outlet;

(c) being responsible for maintenance of the irrigation system under a pipe-outlet, neglects to take proper precautions for the prevention of wastage of the water thereof or interferes with the authorised distribution of water therefrom or uses water in an unauthorised manner or in such manner as to cause damage to the adjacent land-holding;

(d) corrupts or fouls the water of any irrigation system under a pipe-outlet so as to render it less fit for the purpose for which it is ordinarily used;

(e) destroys, defaces or removes any level marks or watergauge or any other work or sign fixed by the Authority or a public servant;

(f) opens, shuts or obstructs or attempts to open, shut or obstruct, any sluices, outlet or any other similar contrivance in any irrigation system under a pipe-outlet or drainage system;

(g) uses water unlawfully or unauthorisedly or agrees or allows to grow any crop in contravention of any notification under this Ordinance, shall, on conviction, be punished with imprisonment for a term which may extend to two years or with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees, or with both:

Provided that in the case of a continuing offence, a fine not exceeding one hundred rupees per day shall also be imposed during the period of the continuance of the offence.

(2) The Authority shall have the power to remove the obstruction or repair the damage to structure in the irrigation system and the cost thereof shall be recoverable as arrears of public revenue due on land from the persons specified in sub-section (1).

27. *Liability when person using water unauthorisedly cannot be found.*—(1) If water supplied through a field channel is used in any unauthorised manner and if the person by whose act or negligence such use has occurred cannot be found after such inquiry as the Authority may deem sufficient, the Authority shall, after giving not less than one month's notice to the holders and occupiers of all lands benefited thereby and after hearing their representations, if any, make an order for the recovery of such charges as may be prescribed by regulations for such use from such holders and occupiers in such proportion as it may deem fit.

(2) All charges for the unauthorised use of water determined under sub-section (1) shall be recoverable as arrears of public revenue due on land.

28. *Abetment of offences.*—Whoever abets any offence punishable by or under this Ordinance or attempts to commit any such offence, shall be punished with the penalty provided by this Ordinance for committing such offence.

29. *Punishment under other laws not barred.*—Nothing in this Ordinance shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act or omission made punishable by or under this Ordinance:

Provided that no person shall be prosecuted and punished for the same offence more than once.

30. *Offences under this Ordinance to be cognisable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) all offences under this Ordinance shall be cognisable.

31. *Power to remove and take into custody person obstructing.*—Any officer or authority in charge of or employed in respect of any irrigation system under a pipe-outlet may remove from the land or any building thereon or take into custody without a warrant and forthwith hand over to a police officer in-charge of the nearest police station, any person, who in his views,—

(a) wilfully damages, alters, enlarges or obstructs any irrigation system under a pipe-outlet; or

(b) without proper authority interferes with the supply or flow of water in or from any irrigation system under a pipe-outlet so as to endanger, damage or render less useful such irrigation system under a pipe-outlet:

Provided that the person so taken into custody shall be produced before the nearest Magistrate within a period of twenty-four hours excluding the time necessary for the journey from the place of arrest to the court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

32. *Payment of fine as reward to informant.*—(1) Whenever any person is sentenced to fine under this Ordinance, the court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of

which such fine forms a part, may direct that the whole or part of such fine may be paid by way of reward to any person who gave information leading to the detection of such offence or to the conviction of the offender.

(2) If any such fine is ordered to be paid as reward by a court whose decision is subject to appeal the amount ordered to be so paid shall not be paid until the period prescribed for presentation of the appeal has elapsed, or if an appeal is preferred, until after the disposal of the appeal.

33. *Composition of offences.*—(1) Any officer authorised by the Authority may accept from any person who has committed, or in respect of whom a reasonable belief can be inferred that he has committed an offence punishable under this Ordinance, a sum of money not exceeding two hundred rupees by way of composition of such offence.

(2) On payment of such sum of money the said person if in custody shall be released and no further proceedings shall be taken against him in regard to the offence so compounded.

Chapter X

Miscellaneous

34. *Formation of units.*—All lands comprised in a command area under a pipe-outlet shall normally form a single unit but in exceptional cases the land comprised in the command area under two or more pipe-outlets shall also form a single unit for the purpose of,—

(i) comprehensive land development; and

(ii) maintenance and upkeep of irrigation system under a pipe-outlet.

35. *Power to enter, survey etc.*—Any Development Officer or any other officer authorised by the Authority in this behalf, with or without assistance of workmen, may—

(a) enter upon any land in the command area of an irrigation system under a pipe-outlet or lands adjacent thereto and undertake survey or take levels thereon for preparing a scheme for systematic land development;

(b) dig and bore into top-soil or sub-soil and collect soil samples for technical investigation;

(c) make and set up suitable land marks and level marks for the said purposes; and

(d) do all other acts necessary for the proper conduct of any inquiry or investigation relating to any existing or proposed scheme for comprehensive land development and allied works:

Provided that if the Development Officer proposes to enter into any enclosed premises, he shall give the occupier of such enclosed premises at least a day's notice in writing of his intention to do so, if the occupier denies entry on oral request.

36. *Charge leviable.*—The Authority may levy and collect charges for the maintenance and repairs of irrigation channels or drain channels from the beneficiaries where maintenance of such channels is done by the Authority.

37. *Fees for service.*—The Authority may charge such fees as may be prescribed by rules for rendering any service to any person.

38. *Members of Authority and members of staff of Authority to be public servants.*—Members of the Authority and the members of the staff of the Authority shall, while acting or purporting to act in pursuance of any of the provisions of this Ordinance or the rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

39. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government, the Authority or the Chairman or any other member of the Authority or any officer or servant of the Government or of the Authority for anything which is in good faith done or purported or intended to be done in pursuance of this Ordinance or any rule or regulation made thereunder.

40. *Recovery of dues as arrears of public revenue due on land.*—If any sum due to be paid by any landholder under sub-section (2) of section 16 has not been paid within the time prescribed for such payment, it shall be recoverable with interest at such rates as may be prescribed by rules in the same manner as arrears of public revenue due on land.

41. *Offences by companies.*—(1) Where an offence punishable under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager,

secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

42. *Bar of jurisdiction.*—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Government or the Authority or any officer is empowered by or under this Ordinance to do or determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Ordinance.

43. *Power to summon and examine witnesses.*—Any officer empowered under this Ordinance to conduct any enquiry may exercise such powers connected with the summoning and examining of the witnesses and the production of documents as are conferred on a civil court by the Code of Civil Procedure, 1908 (Central Act 5 of 1908) and any such enquiry shall be deemed to be a judicial proceeding.

44. *Revision.*—(1) The Government may, either *suo-motu* at any time or on an application made within such period as may be prescribed by rules by any person interested, call for and examine the records of any decision or order passed or proceeding taken under this Ordinance by any Authority or officer subordinate to it for the purpose of satisfying themselves as to the legality or propriety or regularity of such decision or order or proceeding and if, in any case, it appears to them that any such decision, order or proceeding should be modified, annulled, reversed or remitted for reconsideration, it may pass an order accordingly:

Provided that no order adversely affecting any person shall be passed under this sub-section unless such person has been given an opportunity of making a representation.

(2) The Government may stay the execution of any such decision, order or proceeding pending the exercise of their powers under sub-section (1).

45. *Power to make rules.*—(1) The Government may, after previous publication, by notification in the Gazette, make rules to carry out all or any of the purposes of this Ordinance.

(2) A rule under this Ordinance may be made with retrospective effect and when a rule is so made the reason for making the rule with retrospective effect shall be specified in a statement laid before the Legislative Assembly.

(3) Every rule made under this Ordinance shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any person contravening any rule made under this Ordinance, for the contravention of which no special penalty is provided in this Ordinance, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both:

Provided that no prosecution under this sub-section shall be instituted without the previous sanction of the Government or an officer of the Government authorised by them in this behalf.

46. *Regulations.*—Every Authority may, with the previous approval of the State Government, after previous publication by notification in the Gazette, make regulations not inconsistent with this Ordinance and the rules made thereunder, for enabling it to discharge its functions under this Ordinance.

47. *Directions by Government.*—In the discharge of its functions, every Authority shall be guided by such directions and instructions as may be given to it by the Government.

48. *Act to over-ride other laws.*—(1) The provisions of this Ordinance and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom, usage or contract or decree or order of a court or other authority.

(2) For the removal of doubts it is hereby declared that the provisions of the Kerala Land Development Act, 1964 (17 of 1964) and the rules made thereunder shall apply to the extent such provisions are not inconsistent with the provisions of this Ordinance.

49. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, by order, make such provisions not inconsistent with the provisions of this Ordinance as appear them to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be issued under this section after the expiry of two years from the date of commencement of this Ordinance.

(2) Every order issued under this section shall be laid before the Legislative Assembly and the provisions of sub-section (2) of section 45, shall apply in respect of an order made under this Ordinance.

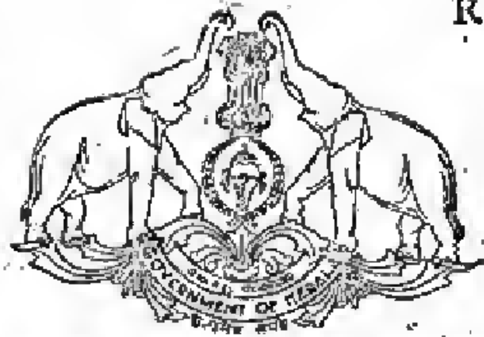
50. *Repeal and saving.*—(1) The Kerala Command Areas Development Ordinance, 1985 (1 of 1985) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 3561/Leg.B1/85/Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

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ORDINANCE No. 36 OF 1985

THE KERALA PRESERVATION OF TREES ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to provide for the preservation of trees in the State of Kerala.

Preamble.—WHEREAS there has been indiscriminate felling and destruction of trees in the State of Kerala resulting in considerable soil erosion and destruction and loss of the timber wealth of the State;

AND WHEREAS with a view to prevent soil erosion and destruction and loss of the timber wealth in the State, it is necessary to regulate the felling and destruction of trees in the State;

AND WHEREAS the Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 (21 of 1983) was promulgated by the Governor of Kerala on the 17th day of June, 1983 for the above purposes;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 20th day of June, 1983 and ended on the 4th day of August, 1983;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Preservation of Trees and Regulation of Cultivation in Hill Areas Ordinance, 1983 (29 of 1983) was promulgated by the Governor of Kerala on the 29th day of August, 1983;

AND WHEREAS a Bill to replace Ordinance 29 of 1983 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 29 of 1983 ceased to operate on the 6th day of January, 1984;

AND WHEREAS on a review of the implementation of the provisions of the said Ordinance, the Government were satisfied that it was not necessary to impose regulation on cultivation in hill areas;

AND WHEREAS in order to keep alive the other provisions of the said Ordinance, the Kerala Preservation of Trees Ordinance, 1984 (15 of 1984) was promulgated by the Governor of Kerala on the 15th day of February, 1984;

AND WHEREAS a Bill to replace Ordinance 15 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 15 of 1984, the Kerala Preservation of Trees Ordinance, 1984 (31 of 1984) was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 31 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 31 of 1984, the Kerala Preservation of Trees Ordinance, 1984 (47 of 1984) was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 47 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 47 of 1984, the Kerala Preservation of Trees Ordinance, 1984 (96 of 1984) was promulgated by the Governor of Kerala on the 3rd day of December, 1984;

AND WHEREAS a Bill to replace Ordinance 96 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 96 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Kerala Preservation of Trees Ordinance, 1985.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 18th day of June, 1983.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) "appellate authority" means an appellate authority appointed under sub-section (2) of section 3;

(b) "authorised officer" means an officer appointed under sub-section (1) of section 3;

(c) "owner" in relation to any land, includes a mortgagee, lessee or other person having right to possession and enjoyment of that land;

(d) "prescribed" means prescribed by rules made under this Ordinance;

(e) "tree" means any of the following species of trees, namely:—

Sandalwood (Santalum album), Teak (Tectona grandis), Rosewood (Dalbergia latifolia), Irul (Xylia Xylocarpa), Thempavu (Terminalia tomantosa), Kampakam (Hopea parviflora), Chempakam (Michelia chempaca), Chadachi (Grewia tiliaefolia), Chandana vempu (Cedrela toona), Cheeni (Tetrameles nudiflora).

3. *Authorised officers and appellate authorities.*—(1) The Government may, by notification in the Gazette, appoint such officers as they think fit to be authorised officers for the purposes of this Ordinance and may assign to them such local limits as the Government think fit.

(2) The Government may, by notification in the Gazette, appoint such officers as they think fit to be appellate authorities for the purposes of this Ordinance and may assign them such local limits as the Government think fit.

4. *Restriction regarding cutting, etc., of trees.*—(1) No person shall, without the previous permission in writing of the authorised officer, cut, uproot or burn, or cause to be cut, uprooted or burnt, any tree.

(2) The permission under sub-section (1) shall not be refused if—

(a) the tree constitutes a danger to life or property; or

(b) the tree is dead, diseased or windfallen:

Provided that where permission to cut a tree is granted on the ground specified in clause (a) or clause (b), the authorised officer shall impose as a condition for the grant of such permission the effective regeneration of an equal number of the same or other suitable species of trees; or

(c) such cutting is to enable the owner of the land in which the tree stands to use the area cleared or the timber cut for the construction of a building for his own use

(3) No person shall cut or otherwise damage, or cause to be cut or otherwise damaged, the branch of any tree:

Provided that the provisions of this sub-section shall not be deemed to prevent the pruning of any tree as required by ordinary agricultural or horticultural practices.

(4) No person shall, without the previous permission in writing of the authorised officer, destroy any plant of any tree or do any act which diminishes the value of any such plant.

(5) Nothing contained in sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) shall apply in respect of any tree or plant in the compound of any residential building:

Provided that where such compound exceeds 0.8 hectare in extent, the provisions of this sub-section shall apply only in respect of an extent of 0.8 hectare immediately surrounding the residential building.

5. *Prohibition of cutting of tree in notified areas.*—(1) Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court, tribunal or other authority, or in any agreement or other arrangement, the Government may, with a view to preserving the tree growth in private forests or in the Cardamom Hills Reserve or in any other are as cultivated with cardamom, by notification in the Gazette, direct that no tree standing in any such area specified in the notification shall be cut, uprooted or burnt except on the ground that—

(a) the tree constitutes a danger to life or property; or

(b) the tree is dead, diseased or windfallen:

Provided that the provisions of this sub-section shall not be deemed to prevent the pruning of any tree as required by ordinary agricultural or horticultural practices.

(2) No person shall, without the previous permission in writing of the authorised officer, cut, uproot or burn, or cause to be cut, uprooted or burnt, any tree in any area specified in the notification under sub-section (1) on any of the grounds specified therein.

Explanation I.—For the purposes of this section, the term "tree" shall include any species of tree.

Explanation II.—For the purposes of sub-section (2), the expression "private forest" means any land which immediately before the 10th day of May, 1971, was a private forest as defined in the Kerala Private Forests (Vesting and Assignment) Act, 1971.

6. *Application for permission.*—(1) Every application for permission under section 4 or section 5 shall be in such form and shall contain such particulars as may be prescribed and shall be made to the authorised officer.

(2) The procedure to be followed by the authorised officer in granting or refusing permission under section 4 or section 5 shall be such as may be prescribed.

7. *Appeal.*—(1) Any person aggrieved by an order refusing to grant permission under section 4 or section 5 may, within ninety days of the receipt of such order, prefer an appeal to the appellate authority:

Provided that the appellate authority may admit an appeal preferred after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(2) An appeal under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

(3) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such order thereon as it thinks fit.

8. *Revision.*—(1) The Government may, either *suo motu* or on application by any person aggrieved by an order of the appellate authority under section 7, call for and examine the record of any order passed by the appellate authority for the purpose of satisfying themselves as to the legality, propriety or regularity of such order and pass such order thereon as they think fit.

(2) The Government shall not of their own motion revise any order under sub-section (1) if that order has been passed more than three months previously.

(3) An application under sub-section (1) by an aggrieved person shall be made within a period of sixty days from the date on which the order of the appellate authority was communicated to him:

Provided that the Government may admit an application made after the expiry of the said period of sixty days, if they are satisfied that the applicant had sufficient cause for not making the application within that period.

(4) An order prejudicial to a person shall not be passed under sub-section (1) unless that person has been given a reasonable opportunity of showing cause against such order.

Explanation.—An order declining to interfere shall, for the purposes of this sub-section, be deemed to be an order prejudicial to a person.

9. *Penalties.*—Whoever contravenes any of the provisions of section 4 or sub-section (2) of section 5 or a direction contained in a notification under sub-section (1) of section 5 or any of the terms and conditions subject to which a permission has been granted under this Ordinance shall be punishable,—

(a) in the case of first offence, with imprisonment for a term which shall not be less than six months but which may extend to two years, and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees; and

(b) in the case of a second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to three years, and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees.

10. *Offences by companies.*—(1) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the

conduct of its business, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm, society or other association of individuals; and

(b) "director",—

(i) in relation to a firm, means a partner in the firm;

(ii) in relation to a society or other association of individuals, means the person who is entrusted, under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

11. *Powers of authorised officers and appellate authorities.*—Every authorised officer and appellate authority shall, for the purpose of performing his or its functions under this Ordinance, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit; and

(d) such other matters as may be prescribed.

12. *Powers of entry and inspection.*—The authorised officer or any other officer generally or specially authorised by the Government in this behalf may, with such assistants, if any, being persons in the service of the Government, as he thinks fit, at all reasonable times enter upon any land for the purpose of ascertaining whether any of the provisions of this Ordinance or any of the terms and conditions subject to which any permission has been granted under this Ordinance has been contravened.

13. *Power to seize timber and other articles involved in commission of offence.*—(1) Where any officer of the Forest Department not below the rank of Forester or any Police Officer not below the rank of Sub Inspector has reason

to believe that any tree has been cut in contravention of section 4 or sub-section (2) of section 5 or a direction contained in a notification under sub-section (1) of section 5, he may seize the timber of such tree together with all tools, ropes, chains and other articles used in the commission of such offence and all boats, vehicles and cattle used for carrying such timber.

Explanation.—The terms "boat" and "vehicle" in this section, section 14 and section 15 shall include all the articles and machinery kept in the boat or vehicle, as the case may be, whether fixed to the same or not.

(2) Every officer seizing any timber under sub-section (1) shall place on such timber a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such seizure to the authorised officer.

(3) On receipt of a report under sub-section (2), the authorised officer shall,—

(a) if he is satisfied that the timber mentioned in such report is of any tree cut in contravention of section 4 or sub-section (2) of section 5 or a direction contained in a notification under sub-section (1) of section 5, make a report of such seizure to the Judicial Magistrate of the First Class having jurisdiction over the area in which such seizure has been made;

(b) if he is not so satisfied, make a report of such seizure to such authority as may be prescribed.

(4) The authority to which a report is made under clause (b) of sub-section (3) shall,—

(a) if it is satisfied that the timber mentioned in such report is of any tree cut in contravention of section 4, or sub-section (2) of section 5 or a direction contained in a notification under sub-section (1) of section 5, make a report of the seizure of such timber to the Judicial Magistrate of the First Class having jurisdiction over the area in which such seizure has been made;

(b) if it is not so satisfied, order that such timber and any tool, rope, chain or other article or any boat, vehicle or cattle seized along with it shall be returned to the person from whom they were seized.

14. *Power to release property seized under section 13.*—The authorised officer may release any timber and any tool, rope, chain or other article or any boat, vehicle or cattle seized under section 13 and in respect of which a report has been made to the Judicial Magistrate of the First Class under clause (a) of sub-section (3) or clause (a) of sub-section (4) of that section, on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before such Magistrate.

15. *Procedure by Magistrate.*—Upon the receipt of a report under clause (a) of sub-section (3) or clause (a) of sub-section (4) of section 13, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the timber and any tool, rope, chain or other article or any boat, vehicle or cattle seized along with it, according to law.

16. *Procedure as to perishable property seized under section 13.*—(1) Notwithstanding anything hereinbefore contained,—

(a) the Magistrate to whom a report is made under section 13 may direct the sale of any property seized under that section, which is subject to speedy and natural decay; and

(b) if, in the opinion of the authorised officer, it is not possible to obtain the orders of the Magistrate under clause (a) in time, such officer may sell the property himself, remit the sale proceeds into the nearest Government Treasury and make a report of such seizure, sale and remittance to the Magistrate referred to in the said clause, and thereupon such Magistrate shall take such measures as may be necessary for the trial of the accused.

(2) The Magistrate may deal with the proceeds of the sale of any property sold under clause (a) or clause (b) of sub-section (1) in the same manner as he might have dealt with the property if it had not been sold.

17. *Saving of power to release property seized.*—Nothing hereinbefore contained shall be deemed to prevent the authorised officer from directing at any time the immediate release of any property seized under section 13 and the withdrawal of any charge made in respect of such property:

Provided that the powers under this section shall be exercised by the authorised officer only for good and sufficient reasons to be recorded in writing and with the previous approval in writing of the Chief Conservator of Forests.

18. *Institution of prosecution.*—No prosecution shall be instituted against any person without the sanction of the authorised officer.

19. *Cognizance of offences.*—No court inferior to that of a Judicial Magistrate of the First Class shall try any offence under this Ordinance.

20. *Bar of jurisdiction of civil courts.*—No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Ordinance required to be settled, decided or dealt with or to be determined by any officer or authority or the Government.

21. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority or any other person for anything which is in good faith done or purporting to have been done under this Ordinance or any rule or order made thereunder.

22. *Restriction regarding cutting, etc. of trees in future assignments.*—Notwithstanding anything contained in any law for the time being in force, any assignment after the commencement of this Ordinance, of land belonging to the Government, under any law for the time being in force shall be subject to the condition that the assignee shall not, without the previous permission in writing of the authorised officer, cut, uproot or burn, or cause to be cut,

uprooted or burnt, any tree standing on such land at the time of such assignment, and the provisions of this Ordinance shall apply in relation to such permission as if they apply in relation to a permission under section 4.

23. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the girth of trees which may be permitted to be cut;

(b) the terms and conditions subject to which permission may be granted;

(c) the procedure to be followed by the authorised officer before granting or refusing permission;

(d) the procedure to be followed by the appellate authority in the disposal of an appeal under section 7;

(e) any other matter which has to be, or may be, prescribed.

24. *Laying of notifications and rules before Legislative Assembly.*—Every notification issued under sub-section (1) of section 5 and every rule made under section 23 shall be laid, as soon as may be after it is issued or made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the notification or rule or decides that the notification or rule should not be issued or made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

25. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, as occasion may require, by order, do anything not inconsistent with such provisions, which may appear to them to be necessary for removing the difficulty.

26. *Repeal and saving.*— (1) The Kerala Restriction on Cutting and Destruction of Valuable Trees Act, 1974 (7 of 1974), and the Kerala Preservation of Trees Ordinance, 1984 (96 of 1984) are hereby repealed.

(2) Notwithstanding the repeal of the Kerala Preservation of Trees Ordinance, 1984 (96 of 1984) anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Ordinance:

Provided that no person convicted of an offence with respect to anything so deemed to have been done under this Ordinance, shall be subjected to a penalty greater than that which might have been inflicted under the law applicable to such offence, in force at the time of the commission of such offence:

Provided further that nothing contained in this section shall render any person liable to be convicted of an offence i respect of anything done or omitted to be done by him after the 1st day of Aug. st, 1983 and before the 30th day of August, 1983 and after the 6th day of January, 1984 and before the 15th day of February, 1984.

P. RAMACHANDRAN,
GOVERNOR.

Reg. No. KL/TV(N)/12

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Government of Kerala
1985



KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 10193|Leg. C3|84|Law. *Dated, Trivandrum, 17th April, 1985|*
27th Chaithra, 1907.

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1985.

33|1565|MC.

ORDINANCE No. 9 OF 1985

THE KERALA LABOUR WELFARE FUND (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Labour Welfare Fund Act, 1975.

Preamble.—WHEREAS the Kerala Labour Welfare Fund (Amendment) Ordinance, 1984 (18 of 1984), was promulgated by the Governor of Kerala on the 23rd day of February, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Labour Welfare Fund (Amendment) Ordinance, 1984 (22 of 1984), was promulgated by the Governor of Kerala on the 9th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 22 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 22 of 1984, the Kerala Labour Welfare Fund (Amendment) Ordinance, 1984 (62 of 1984), was promulgated by the Governor of Kerala on the 30th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 62 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which

AND WHEREAS in order to keep alive the provisions of Ordinance 62 of 1984, the Kerala Labour Welfare Fund (Amendment) Ordinance, 1984 (75 of 1984), was promulgated by the Governor of Kerala on the 28th day of November 1984;

AND WHEREAS a Bill to replace Ordinance 75 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 75 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Labour Welfare Fund (Amendment) Ordinance, 1985.

(2) Section 6 shall be deemed to have come into force on the 1st day of January, 1983 and the remaining provisions of this Ordinance shall be deemed to have come into force on the 25th day of February, 1984.

2. *Act 11 of 1977 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Labour Welfare Fund Act, 1975 (11 of 1977) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 9.

3. *Amendment of section 2.*—In section 2 of the principal Act,—

(1) in clause (d),—

(a) in sub-clause (i),—

(i) in the opening paragraph, for the words "for a period of one

not less than thirty days during the preceding twelve months" shall be substituted;

(ii) in item (B), for the words "seven hundred and fifty rupees", the words "one thousand and five hundred rupees" shall be substituted;

(b) the Explanation at the end shall be omitted;

(2) in clause (f),—

(a) for sub-clause (iii), the following sub-clause shall be substituted, namely:—

"(iii) any land used for growing tea, rubber, coffee, cardamom, oil palm or cocoa, in which ten or more persons are employed or were employed in any day of the preceding twelve months;";

(b) in sub-clause (iv),—

(i) after the word, brackets and figure "clause (4)", the words, brackets and figure "or any shop within the meaning of clause (15)" shall be inserted;

(ii) the provisos shall be omitted.

4. *Amendment of section 3.*—In sub-section (2) of section 3 of the principal Act,—

(i) in clause (b), for the words, figures and brackets "Standing Order 20 of the Model Standing Orders issued under the Kerala Industrial Employment (Standing Orders) Rules, 1947", the words, figures and brackets "Standing Order 17 of the Model Standing Orders issued under the Kerala Industrial Employment (Standing Orders) Rules, 1958" shall be substituted;

(ii) clause (1) shall be omitted.

5. *Substitution of new section for section 14.*—For section 14 of the principal Act, the following section shall be substituted, namely:—

"14. *Interest on employers' and employees' contributions, unpaid accumulations or fines after notice of demand.*—(1) If an employer does not pay to the Fund any amount of the employers' and employees' contributions due under section 15 before the date specified in that section or does not pay to the Board any amount of the unpaid accumulations or fines realised from the employees within the time specified by or under this Act, the Commissioner may serve or cause to be served on such employer a notice to pay the amount within the period specified therein, which shall not be less than thirty days from the date of service of such notice.

(2) If the employer fails, without reasonable cause, to pay the amount specified in a notice issued under sub-section (1) within the period

specified therein, he shall be liable to pay, in addition to that amount, to the Fund or the Board, as the case may be, by way of penalty, simple interest at the rate of nine per cent per annum from the date on which the amount fell due:

Provided that the Government may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty in respect of any period.".

6. *Amendment of section 15.*—In section 15 of the principal Act, in sub-section (1), for the words "fifty paise" and "one rupee", the words "one rupee" and "two rupees" shall respectively be substituted.

7. *Insertion of new section 28A.*—After section 28 of the principal Act, the following section shall be inserted, namely:—

"28A. *Penalties for other offences.*—(1) Whoever contravenes, or makes default in complying with, any of the provisions of this Act or of any rules or regulations made thereunder shall, if no penalty is provided in section 28 for such contravention or default, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) A court while passing a judgment convicting a person under sub-section (1) for making default in the payment of any amount due to the Fund or the Board shall also order that such amount be recovered from such person as if it were a fine imposed by such court and paid to the Fund or the Board, as the case may be.".

8. *Amendment of section 29.*—In sub-section (1) of section 29 of the principal Act, for the words "except on a complaint by, or with the previous sanction in writing of the Commissioner", the words "except on a complaint made by an Inspector with the previous sanction in writing of the Commissioner" shall be substituted.

9. *Amendment of section 31.*—In section 31 of the principal Act,—

(a) for the words "the date on which the offence is alleged to have been committed", the words "the date on which the offence came to the notice of the Inspector" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:—

"Provided that no court shall take cognizance of an offence punishable by or under this Act after the expiry of three years from the date on which the offence is alleged to have been committed.".

10. *Repeal and saving.*—(1) The Kerala Labour Welfare Fund (Amendment) Ordinance, 1984 (75 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR

Government of Kerala
1985

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 16598|Leg. C2|84|Law. *Dated, Trivandrum, 17th April, 1985| 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

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33|1572|MC.

ORDINANCE No. 16 OF 1985

THE KERALA PANCHAYATS (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Panchayats Act, 1960 and for certain matters incidental thereto.

Preamble.—WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the Kerala Panchayats (Amendment) Ordinance, 1985 (6 of 1985), promulgated by the Governor of Kerala on the 28th day of February, 1985, will cease to operate on the 17th day of April, 1985;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Panchayats (Amendment) Ordinance, 1985.

(2) Section 3 of this Ordinance shall be deemed to have come into force on the 1st day of September, 1984 and the remaining provisions shall be deemed to have come into force on the 30th day of September, 1984.

2. *Act 32 of 1960 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Panchayats Act, 1960 (32 of 1960) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 11.*—In section 11 of the principal Act, in sub-section (1), the proviso shall be omitted.

4. *Special provision for vesting of the powers, functions and duties of certain Panchayats in the Government for temporary period.*—Notwithstanding anything to the contrary contained in the principal Act or in any rule or bye-law made thereunder or in any judgement, decree or order of any court, in the case of every Panchayat the term of office of the members of which expires on the 30th day of September, 1984, the powers, functions and duties of the Panchayat and of its President shall, by virtue of this section, be vested in the Government for a period of one year from the date immediately succeeding the said date and the powers, functions and duties so vested shall be exercised and discharged by the Government in accordance with such rules as may be prescribed by them in that behalf.

5. *Repeal and saving.*—(1) The Kerala Panchayats (Amendment) Ordinance, 1985 (6 of 1985), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance or under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Ordinance or under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Reg. No. KL/TV(N)/12



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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 6524/Leg.B2/85/Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,

P. P. MATHAI,

Special Secretary (Law).

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33|1591|MC.

ORDINANCE No. 27 OF 1985

THE KERALA MARINE FISHING REGULATION (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Marine Fishing Regulation Act, 1980.

Preamble.—WHEREAS the Kerala Marine Fishing Regulation (Amendment) Ordinance, 1984 (64 of 1984) was promulgated by the Governor of Kerala on the 8th day of August, 1984 to provide that appeals under section 18 of the Kerala Marine Fishing Regulation Act, 1980, from the orders of the adjudicating officer, shall be made to the District Court;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 64 of 1984, the Kerala Marine Fishing Regulation (Amendment) Ordinance, 1984 (94 of 1984), was promulgated by the Governor of Kerala on the 3rd day of December, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS it was since decided that appeals from the orders of the adjudicating officer under section 18 of the Kerala Marine Fishing Regulation Act, 1980 shall lie to the District Collector;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Marine Fishing Regulation (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 9th day of August, 1984.

2. *Act* 10 *of* 1981 *to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 7.

3. *Amendment of section* 2.—In section 2 of the principal Act, clause (b) shall be omitted.

4. *Substitution of new section for section* 18.—For section 18 of the principal Act, the following section shall be substituted, namely:—

"18. *Appeal.*—(1) Any person aggrieved by an order of the adjudicating officer may, within thirty days from the date on which the order is made, prefer an appeal to the District Collector having jurisdiction over the area for which the adjudicating officer exercises powers:

Provided that the District Collector may entertain an appeal after the expiry of the said period of thirty days, but not after the expiry of sixty days, from the date aforesaid, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) No appeal under this section shall be entertained by the District Collector unless the appellant has, at the time of filing the appeal, deposited the amount of penalty payable under the order appealed against:

Provided that, on an application made by the appellant in this behalf, the District Collector may, if he is of the opinion that the deposit to be made under this sub-section will cause undue hardship to the appellant, by order in writing dispense with such deposit either unconditionally or subject to such conditions as he may deem fit to impose.

(3) On receipt of an appeal under sub-section (1), the District Collector may, after holding such enquiry as he deems fit and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set aside the order appealed against and the decision of the District Collector shall be final; and

(a) if the sum deposited by way of penalty under sub-section (2) exceeds the penalty directed to be paid by the District Collector, the excess amount, or

(b) if the District Collector sets aside the order imposing penalty, the whole of the sum deposited by way of penalty,

shall be refunded to the appellant.".

5. *Amendment of section* 19.—In section 19 of the principal Act,—

(a) in the marginal note, for the words "Appellate Board", the words "District Collector" shall be substituted;

(b) for the words "Appellate Board", the words "District Collector" shall be substituted;

(c) for the word "itself", the word "himself" shall be substituted;

(d) for the word "it", the word "he" shall be substituted.

6. *Amendment of section* 20.—In section 20 of the principal Act,—

(i) in the marginal note, for the words "Appellate Board", the words "District Collector" shall be substituted;

(ii) in sub-section (1), for the words "Appellate Board", the words "District Collector" shall be substituted;

(iii) in sub-section (2), for the words "Appellate Board", the words "District Collector" shall be substituted.

7. *Amendment of section 24*.—In sub-section (2) of section 24 of the principal Act, for clause (k), the following clause shall be substituted, namely:—

"(k) the procedure to be followed by the District Collector under section 18;".

8. *Transitory provision.*—All appeals from the orders of adjudicating officers under section 18 of the principal Act and pending before the Appellate Board at the commencement of this Ordinance shall be transferred to the District Collector having jurisdiction and the District Collector shall dispose of such appeals under the principal Act as amended by this Ordinance.

9. *Repeal and saving.*—The Kerala Marine Fishing Regulation (Amendment) Ordinance, 1984 (94 of 1984) is hereby repealed.

P. RAMACHANDRAN,

GOVERNOR.

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GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 1908/Leg.B1/85/Law. *Dated, Trivandrum, 17th April, 1985/ 27th Chaithra, 1907.*

The following Ordinance promulgated by the Governor on the 17th day of April, 1985, is hereby published for general information.

By order of the Governor,
P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1985.

33|1593|MC.

ORDINANCE No. 29 OF 1985

THE KERALA ADVOCATES' WELFARE FUND (AMENDMENT) ORDINANCE, 1985

Promulgated by the Governor of Kerala in the Thirty-sixth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Advocates' Welfare Fund Act, 1980.

Preamble.—WHEREAS the Kerala Advocates' Welfare Fund (Amendment) Ordinance, 1984 (66 of 1984) was promulgated by the Governor of Kerala on the 19th day of September, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 66 of 1984, the Kerala Advocates' Welfare Fund (Amendment) Ordinance, 1984 (80 of 1984), was promulgated by the Governor of Kerala on the 28th day of November, 1984;

AND WHEREAS a Bill to replace Ordinance 80 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 6th day of March, 1985 and ended on the 11th day of April, 1985;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 80 of 1984 will cease to operate on the 17th day of April, 1985;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Advocates' Welfare Fund (Amendment) Ordinance, 1985.

(2) It shall be deemed to have come into force on the 5th day of April, 1981.

2. *Act 21 of 1980 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Advocates' Welfare Fund Act, 1980 (21 of 1980) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 23.*—To sub-section (1) of section 23 of the principal Act, the following proviso shall be added, namely:—

"Provided that nothing contained in this sub-section shall apply in respect of any memorandum of appearance filed by an advocate appearing on behalf of the Government.".

4. *Repeal and saving.*—(1) The Kerala Advocates' Welfare Fund (Amendment) Ordinance, 1984 (80 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.